

R.C.C. NO. 93

VOL. V, September 26, 1986

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Friday, September 26, 1986

OPENING OF SESSION

At 9.57 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Ahmad Domocao Alonto.

Everybody remained standing for the Prayer.

PRAYER

MR. ALONTO: Al Fatihah, Bismillaahir — Rahmaanir — Rahiim. — In the name of Allah, Most Benevolent, Ever-Merciful.

'Al-Hamdu Li'llaahi Rabbi'l — 'Aalamiin; — All praise be to Allah, Lord of all the Worlds;

'Ar-Rahmaanir-Rahiim; — Most Beneficent, Ever-Merciful;

Maaliki Yawmid-Diin; — King of the Day of Judgment;

'Iyyaaka na'-budu wa 'iyyaaka nasta-'iin. — Those alone we worship; and to Thee alone we turn for help.

'Indinas-Siraatal-Mustaqiim; — Guide us to the straight path;

Siraatal-laziina 'an-'amta 'alay-him — The path of those whom Thou hast favoured;

Gayril-magzuubi 'alay-him wa laz-zaaalliin — Not (the path) of those who earn Thine anger nor of those who go astray. (Q.1:1-7)

On this homestretch in framing the fundamental law of this country, we ask of Thee, O God, to guide us as Thou hast been guiding us from the start, and grant that we be able to complete the task before the date that we have voluntarily imposed upon ourselves to finish drafting this Constitution.

We ask of Thee, O God, to continue strengthening us along the course of this task and grant that this Constitution could effect a change in attitude and dynamism on the people of this country, for we are aware, O God, of the verity. INNA 'LAAHA LAA YU GHAIRU MABI QAUMIN HATTA YU GHAIRU MABI ANFUSIHIM . —

Verily, God, do not change the condition of a people unless the same people have changed what is in themselves.

We ask of Thee, O God, that this Constitution that we are drafting can establish in this country, UMMATTUN YADU'UNA ILA'L KHAYR WA YA'MURUUNA BIL MA'RUUF WA YANHA'UNA AN'L MUNKAR — A nation that invites to goodness, enjoins what is right and forbids what is evil. (Q. 3:104)

Finally, we thank Thee, O God Almighty, for giving us a leader whom Thou hast blessed with genuine sincerity of faith, complete dedication to the well-being of the people and true love for freedom, justice and democracy.

AMIIN, YA RABBUL ALAMIIN.

At this juncture, the President relinquished the Chair to the Honorable Francisco A. Rodrigo.

ROLL CALL

THE PRESIDING OFFICER (Mr. Rodrigo): The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar

Present [*] Natividad Present

Alonto Present Nieva Present [*]

Aquino Present [*] Nollado Present

Azcuna Present Ople Present [*]

Bacani Present Padilla Present

Bengzon Present Quesada Present

Bennagen Present [*] Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present [*] Sarmiento Present [*]

Foz Present Suarez Present

Garcia Present [*] Sumulong Present

Gascon Present [*] Tadeo Present [*]

Guingona Present Tan Present

Jamir Present Tingson Present

Laurel Absent Treñas Present

Lerum Present [*] Uka Present

Maambong Present Villacorta Present

Monsod Present [*]

The Secretariat is in receipt of official advice of absence of Commissioner Villegas.

The President is present.

The roll call shows 33 Members responded to the call.

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair declares the presence of a quorum.

The Assistant Floor Leader is recognized.

MR. CALDERON: Mr. Presiding Officer, I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. CALDERON: Mr. Presiding Officer, I move that we approve the Journal of yesterday's session.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection?

Commissioner Padilla is recognized.

MR. PADILLA: Mr. Presiding Officer, on page 5, there is a proposed amendment regarding family rights.

I have my own proposal which was submitted to the committee and copies of which were distributed to the Members. I could not be present yesterday morning because I had to appear as amicus curiae before the Supreme Court on the PCGG cases. I move to have my proposal inserted in the Journal after the proposal of Commissioners Davide and Suarez. However, I understand the committee did not accept my proposal, but I would like that to appear in the Journal on page 5.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved.

The Secretary-General is instructed to make the corresponding correction.

APPROVAL OF JOURNAL

MR. CALDERON: Mr. Presiding Officer, I move that we approve the Journal of yesterday's session.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. CALDERON: Mr. Presiding Officer, I move that we proceed to the Reference of Business.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the Presiding Officer making the corresponding references:

COMMUNICATIONS

Letter from Mrs. Rosario A. Magnaye of Looc, Romblon, submitting for consideration by the Constitutional Commission the following suggestions: (1) Give vacant lands owned by the government to deserving tenants; (2) Encourage the landowners to donate some parcels of land to citizens worthy of their trust; and (3) Give every citizen the incentive and the freedom to buy or sell land by mutual agreement between vendor and vendee, among others.

(Communication No. 1012 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Communication from Mr. Bayani Molina of 161 Scout Limbaga Ext., Kamuning, Quezon City, expressing, among others, his opinion about the advantages of a constitutional right to bear arms, submitting therefor his suggestions on how this constitutional right may be implemented.

(Communication No. 1013 — Constitutional Commission of 1986)

To the Committee on Citizenships, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Mr. Florencio D. Montalbo of 39 Notre Dame, Cubao, Quezon City, expressing apprehension over the approval of a constitutional proposal which, in effect, shall perpetuate the post-audit procedure of auditing government accounts.

(Communication No. 1014 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Position paper submitted by the Small Landowners Association of Antique, San Jose, Antique, signed by 203 members, seeking the repeal of Presidential Decree No. 27, known as the Agrarian Reform Law, so that all lands covered by certificates of land transfer containing an area of more than seven hectares and not exceeding 100 hectares be returned to the original owners.

(Communication No. 1015 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Ernesto B. Martinez of 55 Panorama St., Rimview Park Village, Concepcion, Marikina, Metro Manila, seeking inclusion in the Constitution of a provision providing only one color, one design, etc., for our paper monies or currencies, from two-peso to one hundred-peso bill.

(Communication No. 1016 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Mr. Delfin Manlapaz of 1707 E. Rodriguez, Sr. Blvd., Cubao, Quezon City, reiterating his suggestion for the creation of a citizen-owned Reservoir of National Credit wherein everyone, natural-born or naturalized, regardless of sex, age, or social standing, is credited with a prorated initial bank deposit.

(Communication No. 1017 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I move that the Presiding Officer be allowed to perform the duties of the Chair. Section 2 (a) of our Rules states, and I quote:

To preside over the sessions of the Constitutional Commission; and, at his discretion, to designate a Member to perform the duties of the Chair, but such designation shall not exceed one day each time without the consent of the Commission.

In view of this fact, I so move that we approve the designation of the honorable Commissioner Rodrigo as presiding officer beyond the one-day period to perform the duties of the President.

MR. MAAMBONG: I second the motion.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. RAMA: Mr. Presiding Officer, today is Friday, and there is a request for a privilege speech by Commissioner Calderon. May I ask that he be allowed to make his privilege speech within the ten-minute rule.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Calderon is recognized.

QUESTION OF PRIVILEGE OF COMMISSIONER CALDERON

MR. CALDERON: Mr. Presiding Officer, yesterday, Her Excellency, Corazon C. Aquino, President of our Republic, returned from a highly successful nine-day visit to the United States and received a triumphant welcome. In the course of her U.S. visit, she delivered an average of two speeches a day, not counting informal talks with businessmen, like the group of a hundred or so high-powered officials of banking institutions and business conglomerates whom she met for breakfast in her hotel on the morning of the day she was to leave New York City en route to San Francisco on her way home.

In more than half of these 18 formal speeches, whether before American government officials or American business and financial leaders, President Aquino specifically mentioned this Constitutional Commission. Where appropriate, she even gave details of our composition. For example, in her speech before the Women Leaders of America, delivered in Washington, D.C. on the same day that she made her classic address to the U.S. Congress, she said:

A Constitutional Commission, headed by a distinguished woman jurist, Cecilia Muñoz Palma, will soon finish the draft of a new constitution which will be submitted to the Filipino people for approval.

It is plain, Mr. Presiding Officer, that not only the eyes of the Filipino people are upon this Constitutional Commission but the eyes of America, nay, the whole world, are upon us for we do not live on an island entirely by ourselves; we are part of the main; we are part of the world. In short, while we must fashion a life of our own and for our own, we must learn to live with others.

What were President Aquino's basic themes in the 18 speeches that she delivered in America? Whether under the glare of nationwide television or in the intimacy of a breakfast dining room, President Aquino harped again and again on a few recurrent themes.

Not only is her government's policy to encourage private initiative. She believes that the private sector is the stimulus of growth. In her speech before the Stanford Research Institute and the Pacific Basin Economic Council,

delivered September 23, 1986, she said:

The Philippines now has a government that sees private enterprise as the engine of the economy. Private initiative helped to effect the country's immediate recovery from World War II, and placed it second to Japan in economic growth. Under the last administration, it experienced a local variant of state capitalism called 'crony capitalism.' It was 90 percent theft and 10 percent ineptitude.

She batted for what she called an open economy and appealed repeatedly to American businessmen to invest in the Philippines and assist in our economic growth. To the members of the Philippine-American Chamber of Commerce and the New York Economics Club, she said, "I invite you to join us. We have fair and clear guidelines about foreign investments. I am keen to encourage joint ventures because this seems to me the way to ensure the long-term acceptance of foreign investors. We have sectors like public utilities where like any independent country, we wish to preserve full Filipino control, but there also remain pioneer and export-oriented sectors where we give an equally warm welcome to 100 percent foreign ownership."

President Aquino believes and relies on a balanced agricultural and industrial growth. Before the Advisory Committee of Creditor Banks in New York City, she said:

As you know, the government's program is based on a labor-oriented and rural-based growth strategy that will, in the long run, enable us to pay all of our legitimate debts.

President Aquino abhors the use of violence. At a luncheon in her honor given jointly by Harvard University President, Dr. Derek Bok, and Radcliffe College President, Martina Horner, she adverted to the funeral of Ninoy Aquino which was attended by two million people. And then she added, "Until then, nonviolence was the 'unpopular alternative.' After that day of mourning, it was the face of the Philippine revolutions." Two days earlier, in her magnificent address to the joint session of the U.S. Congress, she said:

As I came to power peacefully, so shall I keep it. That is my contract with my people and my commitment to God.

In none of her formal speeches did President Aquino have occasion to mention the issue of American military bases in our country. But in interviews with newsmen, she was asked this nagging question and, consistently, she refused to commit herself, making it obviously clear that she wants to keep her options open until 1991 when the current agreement expires:

Because of the foregoing, Mr. Presiding Officer, I see an uncanny resemblance and what we might term accidental congruence between the hopes and aspirations of our President and the hopes and aspirations of this Constitutional Commission as articulated in the provisions that we have, so far, approved.

Arriving at the same conclusions from different directions and without consultation with each other, our President, on the one hand, and this Commission, on the other, cannot but be both on the right track.

Thank you, Mr. Presiding Officer.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Maambong is recognized.

MR. MAAMBONG: I am temporarily the Acting Floor Leader because the Floor Leader has to answer a telephone call.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 531

(Article on General Provisions)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. MAAMBONG: I move that we continue the interpellations and debate on the Article on General Provisions, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved. We shall continue the interpellations and debate.

MR. MAAMBONG: May I ask the chairman and members of the committee to occupy their seats in front, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The chairman and the members of the committee will please take their place at the front table.

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, may I ask that Commissioner Tadeo be recognized to interpellate.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Tadeo is recognized.

MR. TADEO: Ginoong Presiding Officer, mga kagalang-galang na kasapi sa Committee on General Provisions, ang gusto ko lamang linawin ay tungkol sa page 2, Section 4, lines 5 to 7:

Preference shall be given these war veterans and government retirees in the acquisition of public lands and the development of natural resources.

Minumungkahi pa ng aking kaibigang Florenz Regalado na hindi lamang acquisition kung hindi utilization of public lands and the development of natural resources.

Ang sabi pa kahapon ay mayroon tayong isang milyong government retirees at war veterans na 500,000, at ang kahulugan nito ay 1.5 million. Gusto ko lamang bigyang diin na sa ilalim ng Social Justice, isinasaad ng Section 6 ang sumusunod:

The State shall apply the principles of agrarian reform or stewardship, whenever applicable, in accordance with law, in the disposition or utilization of other natural resources including lands of public domain . . .

Ngunit bago ako dumako tungkol dito sa natural resources, sinasabi ni Mahar Mangahas sa kanyang Land and Natural Resources Reform ayon sa page 6, paragraph 4, ang ganito:

Scarcity of land. Let us stop pretending that natural resources are plentiful in the Philippines. It is now hardly possible to provide land to the landless without taking it away from others. After generation of population pressure, the amount of unoccupied public land available for distribution is no longer significant. Resettlement on the public domain is no longer an available option as it was in the Magsaysay era. Land Reform now requires that some who already have possession have to sacrifice so that others can benefit.

Ayon sa National Census and Statistics Office, noong 1972 ang kabuuang bilang ng landless agricultural workers ay 800,000, ngunit nitong 1984 ang bilang ng landless agricultural workers ay 1.9 million. Sinasabi rin ng mga mananaliksik na ito ay walang katotohanan sapagkat mayroon silang taya na ang landless agricultural workers ay 3 to 4 million. Ginawa natin na isailalim sila sa Section 6 ng Social Justice para matulungan sila at isinama na rin

dito ang 650,000 na pumapanot ng ating bundok. Wala namang solusyon dito upang pigilin ang mga kaingineros maliban na lang kung bibigyan natin sila ng lupa dito sa isinasaad sa Section 4. Pagkatapos dadalhin pa natin dito ang government retirees at ang war veterans. Ito ba ay isa na namang watering-down ng agrarian reform and natural resources? Gusto ko lang linawin ito sa committee.

MR. DE CASTRO: Mr. Presiding Officer, may I answer for the committee?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de Castro is recognized.

MR. DE CASTRO: Mr. Presiding Officer, ang ating war veterans fought for their country. They have widows and orphans; they are maimed and most of them came out almost dilapidated in health. They protected the farmers. They protected every citizen of this country in all world wars. Ang hinihingi lamang ng ating beterano ay makihati naman sila sa kaunting pabuya ng ating gobyerno at ang hinihingi nila ay public lands. When we speak of veterans or farmers in social justice and land reform included na sila sa public domain, included pa sila sa hahatiing lupa ng mga malalaking hacienda. We will recall that under Republic Act No. 1363, approved by our Congress on June 18, 1955, war veterans and their widows and orphans were given the preference in the acquisition of public lands. It is unfortunate that this act was terminated 25 years thereafter; that is, on June 18, 1980. But we have thousands and thousands of war veterans who fought for their country to make this a democracy and yet we will deny them the right, the preferential right, to acquire public lands.

Mr. Presiding Officer, nasaan ang ating konsyensiya? Nasaan ang ating pag-iisip kung ang ating mga beterano ay ating pababayaan? Isipin natin ang kalagayan ng ating mga beterano and their orphans and their widows na ang tinatanggap lamang ay P30 isang buwan. Mayroon pa diyang P100 isang buwan, nangbabalato na sila niyan. They simply die in dark corners. The State must have the duty to protect these war veterans.

Thank you, Mr. Presiding Officer.

MR. NOLLEDO: Mr. Presiding Officer, may I make a few statements here in addition to what Commissioner de Castro said.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Nolleto is recognized.

MR. NOLLEDO: In fact, there is a move to include "their dependents in the acquisition or utilization of public lands and the development of natural resources," but when we say here "preference shall be given these war veterans and government retirees," we do not mean that all of these people will apply for such preference. Perhaps, only a few of them will try to avail of this opportunity given by the State. So I think my friend, Commissioner Tadeo, should not have feared about the diminution of the rights of small farmers. Small farmers are generally protected with respect to landholdings that they cultivate and these landholdings are generally privately owned. What I mean is that all Filipinos, whether they are veterans or nonveterans, will apply under the same conditions with respect to public lands, but because these war veterans fought for their country and for our freedom, then preference should be given to them. Farmers contemplated in the statements of Commissioner Tadeo are actually tilling privately owned lands. And so, while they are not prohibited from acquiring public lands, we should give also some preference to these war veterans and government retirees and their dependents who would like to apply under the same conditions available to others. So I think there is undue fear on the part of Commissioner Tadeo that the farmers for whom he is fighting in this Commission will be suffering from a diminution in their rights.

Thank you, Mr. Presiding Officer.

MR. TADEO: Ginoong Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Tadeo is recognized.

MR. TADEO: Inuulit ko na ang landless agricultural workers ay mayroon nang tatlo hanggang apat na milyon, kaya magiging suliranin natin ito. Ngayon ang government retirees naman ay mayroong mga retirement pay. Tatlo hanggang apat na milyon sa mga magbubukid na ito ay wala namang mga lupa. Ang suliranin nga natin ay ang mga kaingineros na mayroong bilang na 650,000 na pumapanot ng ating bundok, at kapag hindi natin sila napigilan, ang mangyayari ay isang araw ang Pilipinas ay magiging isang malawak na disyerto. Kayat napakalaking suliranin ito. At gusto ko lang bigyan ng diin tungkol doon sa bayani. Palagay ko makabubuting banggitin natin na ang magbubukid ay bayani rin, sapagkat sila ang nagpapakain sa bansa.

MR. NOLLEDO: We do not deny that, Mr. Presiding Officer. There is what is known as the balancing of interests. The balancing of interests is a doctrine that was set forth by the Supreme Court in many cases. We will give preference to war veterans by abandoning the rights of the farmers.

MR. NATIVIDAD: And vice versa.

MR. NOLLEDO: I think the State is duty-bound to observe this theory of balancing of interests. If we follow our theory, Mr. Presiding Officer, there will be some sort of discrimination. There will always be lands available to farmers and veterans whose rights will be duly respected. But I think these veterans have their own landholdings also. I think the State should consider the fact that they are old enough to cultivate new lands.

MR. TADEO: Isang paglilinaw lamang po. Ang magbubukid ay bayani rin na naglingkod sa bayan sapagkat sila yaong nagpapakain sa bansa. Ang ating export ay nanggagaling din sa magbubukid at pagkaraan ang kinikita nito ay dolyar na ibinibili naman natin ng mga hilaw na sangkap, mga makinarya na kakailanganin natin. Napakalaki ng kontribusyon ng magbubukid. Ang tutoo ang sabi nga ng magbubukid: "Kami ba ay mayroong insurance? Kami bang magbubukid na nakuba na, na kinain ng alipunga ang aming mga paa, na ang aming karaniwang sakit ay tuberculosis, kami ba ay merong retirement pay?" Tinatanong ng magbubukid kung mayroon silang retirement pay. Sila man ay bayani rin ng ating bansa tulad ng sinasabi natin sa war veterans.

Isang paglilinaw po lamang tungkol sa Section 4. Sa aking palagay at sa palagay ng magbubukid, hindi na ito dapat mapalagay pa, sapagkat totoong napakaliit na nga naman ng ating likas na yamang puwede pang bungkalin. Problema pa rin natin ang urban and rural dwellers. Saan natin sila dadalhin? Ayon sa Section 10, sa urban land reform. Kaya makikita natin dito na nagkakapatungpatong itong ginagawa natin tungkol sa natural resources reform. Para sa akin hindi na dapat na mapalagay pa ito.

Ang susunod ko pang katanungan sa komite ay tungkol dito sa Section 7, lines 14 to 18.

MR. NATIVIDAD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Natividad is recognized.

MR. NATIVIDAD: Bago po magpatuloy si Commissioner Tadeo sa ibang seksyon, gusto ko lamang ipahayag na tutol din ako na ipagwalang-bahala natin ang kapakanan naman ng beterano. Kinikilala lamang dito ang kapakanan ng magsasaka. Walang alinlangan iyan, Ginoong Presiding Officer. Pero magiging walang utang na loob tayong bansa kung tayo ay hindi lumingon sa pinanggalingan natin. Wala itong Con-Com na ito at ang mga Miyembro nito kung ang mga nagtanggol sa ating kapakanan noong panahon ng kadiliman ay hindi nagpakasakit. Paano tayo makapaghahanap-buhay dito kung tayo ay sakop pa hanggang ngayon, sakmal pa rin tayo, ng ibang bansa? Ang mga naulila ng mga beterano na nagbuwis ng buhay nila ay tumatanggap ng P100 lang sa panahong ito na binibigay ng gobyerno, at huli pa kung dumating sa kanila. At yaong mga naputol ang kamay, naputol ang paa, ay binibigyan na lamang ng pamahalaan ng P30.00 ay pinagmamaramutan pa natin. Wala rin silang pensyon

tulad ng old-age pension. At halos ang karamihan sa kanila ay may tuberkulosis dahil sa matagal na panahon na ipinaglalagi nila sa bundok na wala silang pagkain. Kinalimutan na at hindi na natin makayang tulungan ang ating mga beterano. Sila ay nakalimutan din ng Amerika sapagkat may nagsabi dito na yaon daw digmaan na iyon ay para sa Amerika. Sabi ng Amerika sa Recession Act, ang digmaang iyon ay para sa Pilipinas. Ipinagtatanggol nila ang kanilang bayan kaya dapat lamang na ang magmahal at lumingap sa mga beteranong ito ay Pilipino. Ngunit tayong mga Pilipino ngayon ay ayaw silang lingapin. Saan pupunta ang mga war veterans? Sinasabi sa Recession Act of 1946 ng Amerika that war in the Philippines was fought for the Philippines by the Filipinos, kaya hindi sila binigyan ng benepisyo. Ano ang ipinangako ng Amerika? Ang P50 a month in pay, ngunit ang ibinigay lang ay P18 a month; walang hospitalization benefits, death and burial benefits, educational benefits, service-connected hospitalization benefits and old-age pension. Samakatuwid, sinabi ng Amerika na sa digmaang iyon ay ipinagtanggol ng mga Pilipino ang kanilang kalayaan. Bahala ang pamahalaan natin. Ngayon, sasabihin ng pamahalaang ito: "Aba, nakalimutan na kayo."

Ang Konstitusyon, Ginoong Presiding Officer, ay para sa lahat ng Pilipino. Hindi po ito, kahit mahal natin ang magsasaka, para sa magsasaka lang. Ito po ay para sa lahat ng Pilipino. Kasama na diyan ang mga war veterans, empleyado, estudyante, ang nagtuturo o maestra. Lahat po ay kailangan ito. Bilang founding father of this country o kaya bilang magulang ng bansang ito, pantay-pantay ang paglingap at pagmamahal hindi lamang sa magsasaka kung hindi pati na rin sa mga beterano sapagkat ang isang magulang ay kailangang ipakita ang pantay-pantay na pagmamahal sa kanyang mga anak.

Salamat, Mr. Presiding Officer.

MR. TADEO: Salamat po, kababayang Commissioner Natividad. Kaisa po ninyo ako sa war veterans, kaisa ninyo ako sa government retirees, kaya lang gusto nating ilagay ito sa right perspective. Ang ibig lang nating sabihin, kung ang tinatanggap ng war veterans ay mababa, tungkulin ng pamahalaan na ito ay itaas. Hindi natin dapat ipasa ang problema kungdi harapin natin. Inilalagay lang natin ito sa tamang kaayusan. Kailan man ang magbubukid ay hindi kaaway ng government retirees at war veterans.

MR. NATIVIDAD: Umaasa po ako diyan na ilalagay natin sa ayos ang mga magbubukid at ang mga beterano.

MR. TADEO: Ginoong Presiding Officer, palagay ko nagkaunawaan na tayo na hindi naman tayo tutol duon kung hindi gusto lang nating ilagay sa right perspective.

MR. DE CASTRO: Salamat, Ginoong Presiding Officer.

MR. TADEO: Salamat, Ginoong Presiding Officer.

Ang susunod kong katanungan ay tungkol sa Section 7, lines 14 to 18. Ano ang dahilan at ginagawa natin na ang buhay o life span ng government ministries, bureaus, agencies or corporations ay dalawampung taon?

MR. NOLLEDO: Mr. Presiding Officer, that was already amended. I hope Commissioner Tadeo has a copy of the amended provision.

MR. TADEO: Wala na iyong 20 years?

MR. NOLLEDO: As amended, it now reads:

Congress shall, by law and within a specified period, provide for the review of the performance and management of government ministries, bureaus, agencies or corporations for the purpose of determining their retention, reorganization or dissolution.

Actually, the original was recommended by an environmentalist, Mr. Rene Santiago, but after consideration

thereof, we decided to make it broader in scope and we have now the amended provision which was distributed yesterday, that it will be Congress that will pass a law and, perhaps, delegate to members of the executive department the duty to make a review from time to time. There is no period. Congress will provide for the period. I think this is a very laudable provision, Mr. Presiding Officer. This is not found in the 1935 Constitution and 1973 Constitution. Likewise, there is no provision of this kind in the Freedom Constitution. I hope the Members of the Commission will understand the importance of this provision.

MR. TADEO: Salamat, Ginoong Presiding Officer, dahil halos nakita ko naman dito ngayon na ito rin ang ibig kong sabihin na ang buhay kasi ng isang ministry, bureau, agency or corporation ay nababatay sa pangangailangan ng panahon at hindi dapat bigyan ng taning. Salamat naman sa pagbabagong isinagawa.

MS. ROSARIO BRAID: Mr. Presiding Officer, the spirit of this provision is to encourage ministries, bureaus, corporations to constantly restructure and reformulate or relate their programs to changes in the environment. As we know, during the past months or so, the report of the Reorganization Committee showed that several ministries and about over a hundred corporations or bureaus were found not relevant to the needs of the times. And so the Committee on Reorganization has ordered that these agencies be examined by the appropriate agencies.

MR. TADEO: Tungkol naman dito sa indigenous tourism ng Section 8, when we speak of indigenous tourism, will this also include making the Philippines attractive to foreigners so that they may wine and take advantage of our natural beauties?

MS. ROSARIO BRAID: No. This is not its intent, Mr. Presiding Officer. We have to encourage tourism but we do not want many of our beautiful indigenous communities, such as Puerto Galera, to be destroyed in the interest of foreign tourists. So the intent here is really to encourage the preservation of indigenous communities rather than to deface them. Let us remember that when we had the last international film festival, the previous First Lady wanted to make our place another Cannes. The intent is to avoid extravagances and to ensure that we work within the indigenous resources of the country.

MR. TADEO: Why do we have to constitutionalize tourism? Will this not, in the end, as it is today, legitimize vices and prostitution?

MS. ROSARIO BRAID: I think it is a very important industry and if we do not mention it, if we do not restructure it according to the goals of culture and national identity, we might be doing a disservice. I think this is the rationale for putting it here — we would like to reorient the tourism industry.

MR. TADEO: Tungkol sa Section 15 na nagsasabi: "The State may not be sued without its consent," puwede po bang ipaliwanag ninyo ito. Halimbawa kasi may isang taga-Ministry of Public Highways na nakasagasa ng isang mamamayan, ano ang gagawin ng mamamayan na ito para makapaghabol siya? Mangyaring ipaliwanag po lang sa amin ang Section 15.

MR. MAAMBONG: May I answer for the committee, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Maambong is recognized.

MR. MAAMBONG: This doctrine, Mr. Presiding Officer, of nonsuability of the State is a universal doctrine adopted by all countries of the world for one very salient reason. It is based on public policy in the sense that if we will allow everybody to sue the State without its consent, the principle is that the government will have nothing more to do except protect itself everyday. And that is precisely the reason that we adopt the general rule that the State may not be sued without its consent. But there are so many exceptions. If only we have the time, I can enumerate all the exceptions. But since we do not have the time, I will just inform the body that one of the

exceptions is when there is a law which provides for the State to be sued. Also, if the State or the government will voluntarily enter into a contract, even though there is no law allowing that the State be sued without its consent, once the government enters into a private contract, there is already an implied consent. Therefore, it is not really correct to just generalize the situation that the State may not be sued without its consent because there are so many instances where the State is sued through its implied consent.

MR. NOLLEDO: May I add, Mr. Presiding Officer? I agree with Commissioner Maambong. And the above rule that the government cannot be sued without its consent is based on the classic statement of Justice Holmes in *Kawananakoa v. Polybank* decided by the Federal Supreme Court of the United States. The U.S. Supreme Court said:

A sovereign is exempt from suit, not because of any formal conception or obsolete theory but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.

And Commissioner Maambong rightfully said that there are exceptions. I hope the Gentleman will understand the exceptions. When I say that the State, for example, can be sued with its consent, which may be given expressly by law — general, special or implied as when the State enters into a contract with an individual — the State then goes to the level of the individual as when the State sues the individual, in which case the latter may file a counterclaim against the State. And where the government takes away property from a private person for public use without going through the legal process of expropriation or negotiated sale, the Supreme Court said that the aggrieved party may properly maintain a suit against the government without thereby violating the doctrine of governmental immunity from suit without its consent. There is a general statement that is very important, Mr. Presiding Officer, when the Supreme Court said that the doctrine of governmental immunity from suit cannot serve as an instrument for perpetrating an injustice on a citizen.

Thank you, Mr. Presiding Officer.

MR. TADEO: This postulate has too often been abused by the government which has made this immunity a shield of abuses, kaya ko lamang itinanong.

Ang susunod kong katanungan ay para sa aking kaibigang Heneral, Commissioner de Castro, tungkol sa Section 17, which says:

The Armed Forces of the Philippines, the main force for the defense and security of the State, belongs to the Filipino people.

Its tasks are to preserve the sovereignty and territorial integrity of the nation, to participate in national development and reconstruction, to insure public security, and to serve the interest of the people.

Napakaganda po kasing pakinggan pero gusto kong isakongkreto ang isang karanasan.

Kasama rin dito ang Section 19, which says:

It shall be the duty of the Armed Forces of the Philippines to remain loyal at all times and in all places to the people . . .

Sinasabi rin sa Section 21, "the military as impartial guardian." Ito ang isang kongkretong karanasan na nakita ko sa paglilingkod ko sa mga magbubukid sa buong Pilipinas. Galing ako sa Piat, Solana, Cagayan o ang "Enrile country." Tatumpu't-apat na magbubukid sa ilalim ng proyekto ng Massey-Ferguson, sa pagtatanim ng mais at sorghum ang nagsasaka dito sa Piat at Solana. Pero sila ay napaalis at ang nagpaalis sa kanila ay ang dulo ng baril ng militar na katulong ng political warlord dahil lahat ng nakalagay na OIC sa Cagayan ay galing sa isang minister natin at hindi ko na babanggitin ang kanyang pangalan. Ayon sa isang magbubukid sa mismong

pinuntahan kong lugar, ang sabi sa kanila ay ganito: "Dito sa Solana at Piat dalawa lang ang pamimilian mo — ang dulo ng baril ng militar o ang ballpen, pumirma ka para isuko mo ang karapatan sa bukid o umalis ka na rito." Ang dulo ng baril ang nagdikta. Ang ginamit nila ay ang ballpen. Isinuko nila ang karapatan sa kanilang saka. Sa mga militar, ang nagpapasuweldo ay magbubukid. Dahil pinakamalaki ang magbubukid sa bawat bili ng 34 to 40 million people, ang buwis na nanggagaling sa kanila ang siyang ipinangsusuweldo sa mga militar. Sila rin ang nagpapakain dito, pero ang nagpaalis sa kanila ay ang dulo ng baril ng militar.

Dumako naman tayo sa Mindanao. Pagpasok ng National Development Corporation (NDC) sa mga multinational corporation kasunod ang military, pinalalayas ang mga magbubukid at kapag lumalaban sila dahil sa kanilang karapatan, araw-araw ay dinidilig ng dugo ang buong Mindanao.

Nadako naman ako sa Samar. Ano ang sabi ng mga taga-Samar? "Alam ninyo, Mang Jimmy, dito sa amin sa Samar, pagpunta ng militar, susunugin ang aming bahay, kukunin ang aming gulok, ipagbibili ng piso, dalawang piso. Kukunin ang aming manok, kukunin ang aming itlog at hindi lamang iyon ang pinakamasakit, kukunin pati aming buhay."

Makabubuting suriin natin ang Armed Forces of the Philippines. A study of the genesis and rationale behind the creation of the Philippine Constabulary and Armed Forces of the Philippines reveals that these institutions are primarily intended to protect and maintain a system which serves the political and economic interests of the U.S. more than that of the Filipino people.

Ayon sa Section 17 at kung titingnan natin ang nakalagay dito at ang kongkretong karanasan, makikita natin ang pagkakaroon ng katumbalikan ng isang karanasan at ang nakalagay dito.

Ang sinasabi dito ay "to serve the interest of the people," ngunit kailanman ang Armed Forces of the Philippines ay naglilingkod lamang sa interes ng mga dayuhan at ng mga kasabwat nito.

Humihingi ako sa inyo, Ginoong Presiding Officer, kung paano natin malulunasan ang ganitong kalagayan na sana ang Armed Forces of the Philippines ay maging Armed Forces of the Filipino people.

MR. DE CASTRO: Mr. Presiding Officer, kamakailan lamang ay inaprubahan natin ang Commission on Human Rights, at ang sinasabi ko nga roon, 90 porsiyento ng trabaho ng commission na ito ay ang imbestigahan ang militar. Ang mga sinasabi ni Ginoong Tadeo ay isa sa mga bagay na ilalagay natin sa Commission on Human Rights.

Ako ay naniniwala na mayroon sigurong pang-aabuso ang ating Armed Forces. Kamakailan lamang ay tinanong ko na iyon bang P12 na subsistence allowance sa isang araw para sa isang sundalo ay magkakasya sa kanyang pagkain sa loob ng isang araw? Kaya pagdating sa baryo ng ating sundalo, ang hinahanap ay ang manok, ang baboy at ang itlog. Sapagkat hindi natin binibigyan ng sapat na pangangalaga ang mga tao na silang nangangalaga sa ating katahimikan. Naniniwala ako na mayroong mga abuso na ginagawa.

Kaya, Ginoong Presiding Officer, tayo ay gumagawa ngayon ng Constitution. Ating ayusin kung ano ang dapat nating gawin sa ating New Armed Forces of the Philippines para ang mga sinasabi ninyo ay hindi na maulit pang muli.

MR. TADEO: Ginoong Presiding Officer, gusto ko lamang ipaliwanag sa inyo na isang katanungan kasi sa agrarian reform ang ganito: "Bakit ba hindi naipatutupad ang batas na iyan?" Alam po ba ninyo ang sinasagot kong lagi? Ang batas ng reporma sa lupa ay magtatagumpay lamang kung ang Armed Forces of the Filipino people ay katulong sa pagpapatupad nito. Mawawala na ang insurgency sapagkat ang militar mismo ang katulong ng magbubukid sa pagpapatupad ng tunay na reporma sa lupa. Mawawala ang kaguluhan sa kanayunan;

mawawala ang insureksiyon.

Salamat po, Ginoong Presiding Officer.

MR. DE CASTRO: Just a word, please.

Ginoong Presiding Officer, hindi naman lahat ng miyembro ng Armed Forces ay masama. Mayroon naman talagang nang-aabuso at mayroon naman talagang iyong tinatawag naming "the scalawags" of the Armed Forces.

At ang Armed Forces naman ay paano't paano man ay nakatutulong sa sinasabi nating mga dukhang manggagawa ng lupa. Ang ating engineering batallion ay gumagawa ng barrio roads; gumagawa ng artesian wells sa mga baryo para matulungan ang ating mga dukhang kababayan.

Kaya kung mayroong scalawags diyan, iyan ay aalisin ng ating Human Rights Commission. At tayo ay magtulungan sa paggawa ng ating Constitution upang ang ating Armed Forces ay maging makatao at nang mapagsilbihan ang ating bayan.

Maraming salamat po.

MR. RAMA: May I ask that Commissioner Nollado be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

I will take a few minutes of the time of the Commission, with the kindest indulgence of my beloved colleagues.

I speak on behalf of the war veterans during World War II and the government retirees who after serving the government with dignity and honor are pitifully remunerated by way of measly sums of pensions and gratuities. The government must show gratitude to these people, Mr. Presiding Officer.

I have seen these people who are suffering in the twilight years of their lives; their feeble voice could not be heard by the government. Let that voice be heard in the august halls of this Commission.

To Commissioner Tadeo, I say that this is my fervent hope, that the members of the Armed Forces and the farmers under the new dispensation will cooperate with each other in the realization of the dream to make agrarian reform more meaningful and authentic.

To dramatize the need to give attention to the plight of war veterans and retirees and with the kindest indulgence of this Commission and invoking the precedent set by Commissioner Villacorta who cited passages from the beautiful Filipino poems of the famous Senator Francisco "Soc" Rodrigo, permit me to read the Filipino poem that I wrote under a mango tree in Barrio Inagawan, City of Puerto Princesa, when I was only 12 years old at the time when soldiers enjoyed a wide reservoir of goodwill and love among the people.

Barrio Inagawan, Mr. Presiding Officer, incidentally is the place where Minister Monching Mitra and I were born. It is the barrio whose first parish priest is now Blessed Exequiel Moreno who became Bishop of Columbia.

My poem, which I dedicate to all war veterans present today, is as follows:

Ako'y Isang Kawal

Ako'y isang kawal, isang kawal lamang
Nguni't may taglay ding isang karangalan;
Sa maraming taon na ngayo'y nagdaan
Ipinagtanggol ko itong Inang Bayan.

Ako'y isang kawal na tulad ni Malvar
At Heneral Luna't Gregorio del Pilar;
Sa mga bisig ko ay nangasagisag
Ang kapayapaan ng bayang mapalad.
Ako'y isang kawal, sa tuwina'y handa
Na gawing tahimik itong ating bansa;
Di ko papayagan na apihing kusa
Itong Pilipinas ng mga banyaga.
Ako'y isang kawal, may pusong magiting
Ipagtatangol ko simulain natin
Mithiing demokrasya't banal na layunin
Di ko papayagang sa limot malibing.
Maging sa Korea, saka sa Bataan,
Kapas, Korehidor at ibang labanan
Ako ay nagtiis, nagbigay ng buhay
Dahil din sa iyo, O sinta kong bayan.
Nang ako'y umuwi mula sa labanan
Natutuwa ako, pag-asa ko'y buhay
Kahit na putol pa ang paa ko't kamay
O kaya'y ang mata ay wala nang ilaw.
Subalit kay lungkot ng aking sinapit,
Nang dumating ako sa bayan kong ibig;
Pag-asa'y lumayo, ligaya'y nabulid
Sa bangin ng dusa, sa hirap at sakit.
Paanong di gano'n, sa bayan kong hirang
Neghahari pa rin ang pusong gahaman;
Walang iniibig, walang minamahal
Liban sa salapi, saka karangyaan,
Ako'y isang kawal, oo't kawal lamang
Nguni't binaka ko mundong kasamaan,
Ang dahilan nito'y iyong kabutihan,
Nguni't bakit di ka magpakabuti naman?

I dedicate this poem to the war veterans of the Commission; namely, Senator Ambrosio Padilla, General de Castro, Commissioners Regalado, Rodrigo, Ople and my friend, Commissioner Jamir.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Uka be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Uka is recognized.

MR. NOLLEDO: Commissioner Natividad, also an outstanding veteran, is included among those to whom I dedicate my poem.

MR. RAMA: I ask that Commissioner Ople be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Ople is recognized.

MR. OPLE: Mr. Presiding Officer, I would like to yield precedence to the other names following me because I would like to read more closely the draft article under consideration.

Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Monsod is recognized.

MR. MONSOD: Honorable members of the committee, I just wanted to ask for some clarification. In Section 4, when we talk about "war veterans," are we referring only to the veterans of World War II, Korean War and Vietnam War? What about the soldiers who are maimed or disabled by reason of their fighting an internal insurgency, would they qualify?

MR. DE CASTRO: Mr. Presiding Officer, may I answer the question for the committee? When we speak of "war veterans," we refer to the veterans of the Revolution of 1896; there are still a few of them, about 280 of them according to Commissioner Natividad. We refer also to the veterans of World War I. There are still a few of them — Thomas Claudio was one of the first Filipinos who died in World War I. Then we refer this to the veterans of World War II, the guerrillas included, which I answered yesterday. Then we also refer to the veterans of the Korean War. We sent our soldiers there to fight for democracy. We sent our engineering battalion there to the Vietnam War. The Gentleman's question is: How about those maimed under the present insurgency? I will be very glad to include them as veterans in the fight for democracy; in fact, they should be included. Therefore, Mr. Presiding Officer, I am proposing that the veterans of insurgency fighting should be included as war veterans in Section 4 of our Article on General Provisions.

MR. MONSOD: Therefore, I assume the committee would be willing to accept an amendment that would clarify that intent in the word "war."

MR. DE CASTRO: Certainly.

MR. MONSOD: Mr. Presiding Officer, on Section 7, there are two aspects on the power to review and to make recommendations with respect to the operations and the justification of certain ministries, bureaus and corporations. Did the committee take into consideration Section 3 of the Article on the Commission on Audit which precisely gives the Commission on Audit the mandate and the responsibility to conduct reviews and to submit recommendations to the President and the National Assembly with respect to the financial condition and operation of the government — subdivisions, agencies, instrumentalities including government-owned or controlled corporations and even nongovernmental entities subject to its audit — and to recommend measures necessary to their efficiency, effectiveness and so on? Is not the task of this review really placed by the Constitution on the Commission on Audit and to put a provision here that might open the door to another body which might, in fact, proliferate agencies in the government that we seek to reduce?

MS. ROSARIO BRAID: Mr. Presiding Officer, I think the intent of this provision is not so much really to duplicate what is now the function of audit in terms of appraisal of performance but more so to encourage bureaus and organizations to constantly reexamine their goals, their programs against criteria that they consider relevant to the changing needs. This would refer more to the goals and the programs rather than to performance per se, although that is part of it. So that we would like to emphasize that — I think this is a recognition that organizations tend to become obsolete after a period of time — they have to constantly renew themselves, so to speak.

MR. MONSOD: Yes, Mr. Presiding Officer. This would seem like a constitutionalization of the Presidential

Commission on Government Reorganization and that is taking place without the need of a constitutional provision. We have to make an assumption that the executive department is as much concerned about this matter and will, in fact, when it sees fit, conduct this kind of review and reorganization. However, if we constitutionalize this, there is the danger that this provision can be used in order to exercise political leverage on certain ministries by Congress and would violate the principle of separation of powers. Secondly, would this not open the door to amending or modifying or impairing the civil service? What do we do in such a situation? I would, therefore, think twice before putting this provision in the Constitution, because it might breed more problems rather than solve them.

Would the committee consider this on the assumption that that is a prerogative of the executive, and, in fact, is being done, and there is no need to constitutionalize the PCGR?

MR. NOLLEDO: I do not believe, Mr. Presiding Officer, that there will be a violation of the separation of powers, because it is the Constitution itself that sets forth the principle of the separation of powers and the Constitution has the prerogative to qualify this principle. Besides, Congress, being the repository of governmental authority, should be given the power to determine whether or not government offices are faithfully discharging their duties assigned to them under the Constitution and existing laws.

Mr. Presiding Officer, while I believe that the power to reorganize governmental entities should be executive in nature, Congress should lay down the guidelines and delegate the power of reorganization also to executive officers. With respect to civil service, I would consider this provision as qualifying the pertinent provisions of civil service, because while the right to public office is a privilege, that privilege can be limited by law.

MR. MONSOD: Mr. Presiding Officer, as we know, one of the more important features of a stable government is continuity. And if the people are dissatisfied with the way the executive is running that part of the government, then they should change the government. That is why we have elections. The message can be effectively delivered in that manner. What I am trying to avoid is the situation where Congress really will interfere with the executive department and use this provision in order to diminish the principle of separation of powers.

MR. NOLLEDO: Mr. Presiding Officer, I do not believe that continuity will be impaired by this provision. In fact, I agree with the Commissioner that we have periodic elections. But the moment the victors come into power, they continuously discharge their duties and the government offices would remain as they are. It seems that there is no reviewing authority on the propriety of continuing their offices. I would like to be specific on this. For example, when Cory and Doy were campaigning, I heard Mr. Lina telling all and sundry that when he would assume power as Governor of Metro Manila Commission, they are going to abolish the Metro Manila Commission but up to now they have not abolished the Commission. They are for its retention. I think there must be some higher power that should determine whether government offices should be maintained or not, and we should not rely on mere political outpourings. So periodic elections will not solve the problem of government offices that have been rendered obsolete by the lapse of time.

MR. MONSOD: Mr. Presiding Officer, after we were informed about the situation in the Metro Manila Commission, how did the Gentleman vote on that section that sets up a commission for common services?

MR. NOLLEDO: But we will notice that the Ople amendment, which I accepted, merely establishes a coordinating agency far and apart and substantially different from the Metro Manila Commission, as it is now understood. I do not believe that periodic politics could solve the problem.

MR. MONSOD: Then, Mr. Presiding Officer, his argument about the election promises not being followed is wrong because as the Gentleman himself is saying, what is going to be set up is different from that. Therefore,

there has been an effective abolition and the people who formerly talked about this abolition are, in fact, acting within their promises.

I am only trying to tell the Gentleman that sometimes when one is given adequate information, there may be some modifications in his thinking and this is a natural process that goes on without the constitutionalization of that power.

With reference to Section 8, when we talk about tourism, I would agree with Commissioner Tadeo that perhaps it is not necessary to constitutionalize tourism. Besides, if we notice, in the Article on Declaration of Principles we did pass a section which says that the State shall protect and advance the right of the people and their posterity to a balanced and healthful ecology. And that mandate of the State would include the prevention of what happened in Puerto Galera, since what was allowed there would be a violation of this section.

Would the Commissioner not agree?

MS. ROSARIO BRAID: Mr. Presiding Officer, this was formulated before we approved the section on the Article on Declaration of Principles and that is a very broad statement of principle. This operationalizes it since tourism is a very major industry. So we will amend this at the proper time but I think the committee would like to keep it subject to some amendments.

MR. MONSOD: If we wanted to operationalize everything that is in the Article on Declaration of Principles, we would have a long Constitution, Mr. Presiding Officer.

At the proper time, I would like to propose an amendment on Section 9. I believe this has been discussed with the committee. Our only apprehension there, as presently formulated, is the possibility of the government being given the authority to set up a central body which might amount to censorship.

MS. ROSARIO BRAID: Mr. Presiding Officer, we have discussed this and this is not the intent. As a matter of fact, the last sentence states that the communications industry shall take the primary initiative. As I mentioned in my sponsorship speech, policies here will be multisectoral-based to be initiated by all those groups I mentioned that are interested in the directions of communications. But I will welcome his proposal which he has just given us at the proper time.

MR. MONSOD: Mr. Presiding Officer, going to Section 10, subparagraph 2, how do we visualize the State protecting the public from misleading, harmful, deceptive and colonial advertising, labelling and other forms of misrepresentation?

MS. ROSARIO BRAID: Mr. Presiding Officer, could we defer that until Commissioner Gascon is here because this is his favorite provision, and he would like to defend it?

MR. MONSOD: Yes, I only wanted to know who would be the judge of this type of advertising.

MR. NOLLEDO: I understand, Mr. Presiding Officer, that there is now a body laying down standards by which advertisements may be made and which have the right to provide for sanctions in case of violation of the standards. I think the purpose of Commissioner Gascon here is for Congress to pass a law creating a similar body and giving it more powers.

MR. MONSOD: Would that not amount to censorship? Who is to judge all of this? I am not sure when he says that there is an existing body, whether the terms of reference of the existing body are the same as what he has put in the Constitution.

MS. ROSARIO BRAID: Commissioner Foz will respond, but let me say that there are at least two major bodies;

namely, the PANA or the Philippine Association of National Advertisers and the Philippine Board of Advertising. They are self-regulatory and, of course, they have criteria of common good but there is a need to operationalize them further according to some of the concepts in this provision. But I would like to ask Commissioner Foz to explain this further.

MR. NOLLEDO: In addition, Mr. Presiding Officer, I would like to say that there is no censorship here because the purpose is to enforce police power of the State because we will notice that the purpose is to protect the public against misleading, harmful, deceptive and other forms of misrepresentation.

MR. MONSOD: Yes. We see advertising on television where it says, "Member, PANA" and yet, a lot of their advertising are really commercials or jingles that are transported completely from the United States where we talk about the spirit of the U.S.A. So I do not know how effective PANA is. But, on the other hand, if we give PANA a self-discipline criteria, how far will it go into these things?

MR. NOLLEDO: Mr. Presiding Officer, the instances that he mentioned could be well-covered by the prohibition against colonial advertising because I think the purpose of Commissioner Gascon here is for the Filipinos to develop their own identity because there are Filipinos who are adapted to American customs and traditions that they seem to be more American than the Americans.

MR. MONSOD: Would the Commissioner prohibit jingles and commercials in English? Jingles and commercials that show white faces and talk about the most popular products not only in the United States but in Germany, England, France when they advertise their products, would that come within the prohibition that he has in mind with this section?

MR. NOLLEDO: That will be taken care of by the appropriate body which Congress may establish, Mr. Presiding Officer.

MR. MONSOD: Would the Commissioner call those colonial advertising, Mr. Presiding Officer?

MR. NOLLEDO: In some respects, it seems to me, yes. But I think before any standard can be fixed by Congress, there will be public hearings and the Members of the Congress will determine whether the practices he referred to constitute colonial advertising or not.

MS. ROSARIO BRAID: Commissioner Foz will have to respond.

MR. FOZ: To that last point, I think we can respond frontally. Perhaps in that particular point, for instance, advertising materials or those put out or sponsored by multinationals should be required to use local materials. After all, they engage some of the best advertising agencies in the field. In the case of Coca-Cola, they can very well use local talents, local materials and ship them here instead of using the canned advertising materials that come directly from the U.S. which is a point insofar as colonial advertising is concerned. And perhaps in that way, we avoid propagating American or alien cultures or values and instead use our own ideas without being too nationalistic in this regard. Maybe that is the point.

MR. MONSOD: Mr. Presiding Officer, I think there is nobody in this Commission who would disagree with him on that point that we should develop local talents and the models should be Filipinos themselves. Our only apprehension is: Where do we draw the line? And this is something that if left to Congress, from the examples he has given, may just be touching the surface. A constitutional provision in this regard may be an opening to a vast or broad range of censorship that would even be counterproductive to our own culture.

MS. ROSARIO BRAID: Yes.

MR. FOZ: With regard to the other parts of the provision about misleading, harmful or deceptive advertising,

labelling or misrepresentation, there is a government agency at present, the Bureau of Domestic Trade, which is one of the bureaus in the Ministry of Trade and Industry, which precisely is empowered or authorized by law to handle this thing for the protection of the consuming public.

MR. MONSOD: Mr. Presiding Officer, maybe we can deal with that at the proper time but the question is the definition of colonial advertising.

MS. ROSARIO BRAID: Mr. Presiding Officer, may I just make a few comments. The Philippine Board of Advertising has no legal sanction against erring members, so it is weak in that sense, but this is intended to strengthen or to make it more socially responsible in a way.

MR. MONSOD: Thank you.

MS. ROSARIO BRAID: May I just cite also for the record that a study shows that 76 percent of products advertised are of foreign brands but may be locally manufactured and that six out of top ten advertisers in radio and 9 out of top 10 advertisers in television are multinational subsidiaries. So that most of these advertisers also advertise or use multinational advertising agencies.

MR. MONSOD: Yes. How about the second paragraph of Section 11, when we say:

No one individual, family, or corporation can own more than one form of commercial mass media in a single market.

"Can own" I assume means majority interest — can own a majority interest in more than one form.

MS. ROSARIO BRAID: Yes, Mr. Presiding Officer. Commissioner Foz will give more explanation on this.

MR. FOZ: Yes. The phrase "can own more than one form of commercial media" could convey the idea of majority ownership and control.

MR. MONSOD: What does the committee have in mind when we say "own"? Would this mean a 100 percent, 75 percent, 50 percent plus one or 10 percent?

At the proper time, Mr. Presiding Officer, would the committee entertain a clarification of the word "own" in an amendment?

MR. FOZ: Yes, Mr. Presiding Officer.

MR. MONSOD: The other point is when we say "one form of commercial mass media in a single market," are we saying that a company can own one radio station, one TV station and one newspaper in a market? Let us say a radio station can only reach the tip of Luzon and not Visayas and Mindanao. So, the market for that radio station is only Luzon. Now, this would not prevent that company from owning a radio station in Mindanao or the Visayas as long as there is no duplication of one form in a single market. Is that the idea, Mr. Presiding Officer?

MR. FOZ: There are actually two possible models that can be considered in this regard, Mr. Presiding Officer.

The first model would be to limit one person or one family or one corporation to own only one category or type of media, for instance, print only or broadcast only.

The other model would be to allow the individual corporation or family to own other mass media or other forms of mass media in the other categories but only outside the market area.

MR. MONSOD: Mr. Presiding Officer, the intent of the committee is that as long as there is no duplication of a form of mass media in a single market, then it is allowed. So my first example of one radio station, one TV

station, or one newspaper would be allowed under this Constitution provided these are in a single market. But we cannot have two of them in the same market.

In other words, even if they do not have a TV or newspaper, or if they have two radio stations in a single market, that would be prohibited because that would be a duplication of one form of mass media?

MR. FOZ: No, in this provision we would like to divide mass media into print and broadcast.

MR. MONSOD: Only two — print and broadcast?

MR. FOZ: Yes, broadcast would include TV and radio as one form.

MR. MONSOD: So my question, Mr. Presiding Officer, would be answered in the affirmative — that a corporation can own a newspaper and a TV station in a single market.

MR. FOZ: So, that would be prohibited because that would be in the same market area.

MR. MONSOD: I am confused. What does "in the same market area" mean? Would this mean that a Filipino corporation, let us say a 100 percent Filipino corporation, cannot own a newspaper in addition to a TV station in the Metro Manila area?

MR. FOZ: That is right, Mr. Presiding Officer.

MR. MONSOD: But we are putting the Filipino at a disadvantage. The communication and information industry is the growing industry all over the world and there are certain economics involved in the integration of media. I thought, anyway, that the purpose of this provision was to prohibit monopolies.

MR. FOZ: That is right, Mr. Presiding Officer. That is the intention of the committee.

MR. MONSOD: But if there are 20 newspapers, 5 TV stations, 100 radio stations, and one group has 1 newspaper, 1 TV and 1 radio station, that would not be a monopoly of the media. Are we not going a little too far in terms of trying to curtail Filipino enterprises?

MR. FOZ: No, Mr. Presiding Officer.

MR. MONSOD: We have to compete not only within the domestic market but in the international market, and we know very well that when we have reporters, for example, they can double the inputs in both — newspaper, TV and radio, an integrated approach to media. I do not understand the position of the committee here. We are saying that we can only be in newspapers, and we cannot be in radio.

MR. FOZ: We see it this way, Mr. Presiding Officer. A combination of a newspaper and a TV and radio is a powerful combination which may pave the way for some form of economic or political control or weapon. So that the idea really is this: The provision would pave the way for diversification of ownership and also as a way of promoting the dispersal, diversification of ownership in the countryside. As the situation is now, there is a concentration of mass media establishments in Metro Manila. All the major papers, for instance, the dailies, are all published in Manila. And the circulation, Mr. Presiding Officer, is concentrated in Manila, 80 to 90 percent is in Metro Manila. I am speaking of newspapers, of course.

MR. MONSOD: What we are saying, Mr. Presiding Officer, is that this provision will be an incentive for people to go out and establish newspaper and television and radio to reach the rural areas. I think there is no direct relationship between the provision and his objective.

MR. FOZ: We do not call it incentive, but there is that push that would make people who are really interested in putting up media establishments to go out of Metro Manila so that our people out there will get the benefit of

dissemination of information and ideas, et cetera.

MR. MONSOD: But, Mr. Presiding Officer, if we are not going to give them the benefits of scale and integration, we are precisely discouraging them from going out to the rural areas. If they can avail of the best talents and expertise, then they may be able to do it, if they are feeding into an integrated approach. And we are not talking here of about two TV stations; I believe there are five television stations and maybe over 100 radio stations and 22 newspapers.

MR. FOZ: Yes. There is really little link between print and broadcast. And the real link is between TV and radio. Facilities are quite different, Mr. Presiding Officer. In dissemination, let us say, of news, it is a standard practice for TV and radio stations to really maintain their own separate news staff.

MR. MONSOD: Maybe we can go to the next one. In the third paragraph, if I understand the Commissioner correctly, yesterday in the interpellation he said that this is not mandatory. Is this not amply covered by the section in national economy about encouraging the broad participation of the people in all enterprises that also would be in the same tenor as this provision, Mr. Presiding Officer?

MR. FOZ: We realize, Mr. Presiding Officer, that there is such a provision, a general provision in the Article on National Economy. But we thought that since mass media being a special kind of business or enterprise, a provision like this should appear in a related provision concerning mass media. We just thought this should be expressed in this part of the provision.

MR. MONSOD: I submit, Mr. Presiding Officer, that we are talking about natural resources, the use of the public domain. There is also that much importance to that and, precisely, the Article on National Economy and Patrimony is an omnibus provision that would apply not only to mass media but to all kinds of enterprises that would really have in it the public interest.

MR. COLAYCO: Mr. Presiding Officer, may I interrupt for just one question in Section 11?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Mr. Presiding Officer.

I would like to address a question to Commissioner Foz on the second paragraph of Section 11. I understood the Commissioner said by one form, does he mean the classification of the various media? So we classify TV and radio into one, is that right?

MR. FOZ: Yes, Mr. Presiding Officer.

MR. COLAYCO: Newspapers and, I suppose, magazines into another one.

MR. FOZ: Yes, Mr. Presiding Officer.

MR. COLAYCO: The literal interpretation of the wording of one of the prohibition against owning more than one form could be interpreted to mean that one can own more than one newspaper because that is one form. Is that right?

MR. FOZ: No, Mr. Presiding Officer.

MS. ROSARIO BRAID: Mr. Presiding Officer, as long as it is not in a single market like if one owns a community newspaper that reaches Manila.

MR. COLAYCO: I understand that part of it. What I am saying is we have classified the different forms into two; namely, TV and radio and the other one, newspapers and magazines. The prohibition here is against owning more

than one form. So it is clear that a person cannot own a TV station and a newspaper. That is clear.

MR. FOZ: Yes, Mr. Presiding Officer.

MR. COLAYCO: My question is: Can he own more than one of the same form?

MR. FOZ: What, for example, Mr. Presiding Officer?

MR. COLAYCO: Two newspapers.

MR. FOZ: Does he mean a newspaper owner owning a TV?

MR. COLAYCO: No. Can a newspaper owner own more than two newspapers in the same market?

MR. FOZ: That is covered by the prohibition, Mr. Presiding Officer.

MR. COLAYCO: Not in the formulation that I read because it says here:

No one individual, family, or corporation can own more than one form of commercial mass media in a single market.

We define that there are only two forms. It is clear that we cannot own the two forms. In other words, TV and newspaper. But my question is, if we are going to follow the words strictly, a person can own more than one of the same form.

MR. FOZ: But we have to harken back to the original idea of this provision. It is to prevent monopoly.

MR. COLAYCO: Would he consider two newspapers in Manila a monopoly, considering that there are more than 20?

MR. FOZ: Not in the strict sense perhaps, Mr. Presiding Officer. But ownership or control of two newspapers really packs a wallop insofar as attempting to influence public opinion and shaping people's viewpoints.

MR. COLAYCO: But there are more than 20 newspapers in Manila.

MR. FOZ: Yes, but they do not enjoy the same public rating or acceptance or response.

MR. COLAYCO: Suppose we own two small newspapers.

MR. FOZ: But just the same, if it is in the same market area, it would be a little uneconomic for such a person to do this.

MR. COLAYCO: Outside of economics; I am speaking now of the principle that we are trying to establish here.

MR. FOZ: Yes. That would still come under the prohibition.

MR. COLAYCO: That is the intent, in other words?

MS. ROSARIO BRAID: Let me add a few more to this provision that this will encourage cooperative ownership. If we define, for instance, ownership in terms of a majority, and if one is only a coowner with a hundred others, this will not preclude him because he is only one out of 200 to engage in.

MR. COLAYCO: I just wanted to know.

MS. ROSARIO BRAID: Yes. This will also discourage a replay on relay stations that are heavily centralized so that it will encourage more local programming that are really relevant to the needs of the Visayas and Mindanao, although it may seem, in terms of economies of scale, expensive. However, the spirit here is to ensure that the needs of the diversified culture from below, from the other regions, are also met.

May I also note that the Kapisanan ng mga Brodkasters sa Pilipinas, the network agency of all broadcasters, is in favor and supports this provision.

MR. COLAYCO: Thank you.

MR. MONSOD: Mr. Presiding Officer, the Commissioner brought up another point. He said this would prohibit relay stations, but that is not prohibited by this section, and because what he says here is in a single market. When we provide relays to rural areas, one is still operating in a single market, except he is enlarging his market.

MS. ROSARIO BRAID: The intent here is to encourage the entrepreneurs who only broadcast in a more local-based market.

MR. MONSOD: I do not know, Mr. Presiding Officer, but I disagree with the Commissioner because precisely if we say in a single market, they can only reach Luzon. But with relay stations, they can reach Mindanao and Visayas. And they still come within the single market. What the Commissioner is, in fact, encouraging is a national integration of, say, a radio station which may be good. But she seems to say that this is against the intent of this provision, Mr. Presiding Officer.

The other point which I have reservations on is the statement of Commissioner Foz about the intent to prevent monopolies. How does the Commissioner define a monopoly? I mean when is a thing a monopoly or not? If there are 22 newspapers and one has two, we cannot possibly include that within the definition of monopoly.

MR. FOZ: The basic idea is to diversify ownership. It is all right to have as many as 50 newspapers in Metro Manila, so long as they are owned separately. A newspaper does not only carry news. It also carries opinions. The columnists and the editorial writers in a newspaper are really opinion molders. They represent a certain view. If we have 50 newspapers in Metro Manila, perhaps we can rightly say that they represent 50 different views. Of course, they may also coincide, but the idea is diversification; so we will give as many sides to a given question.

MR. MONSOD: I agree with the Commissioner on that score that there should not be ownership of two newspapers. But a radio station is not really catering to an identical market as the newspaper. How can we call that a single market? By defining it as such, we prohibit ownership of one newspaper and one radio station. The Commissioner himself knows that the coverage of radio is much, much bigger than the newspapers.

A newspaper may probably sell 250,000 copies, but radio is 72 percent of the country. How can we include that definition as one? How can we define that as a single market? Those are really essentially two markets.

MR. FOZ: Yes, two separate, different markets.

MR. MONSOD: So, it is allowed to have a newspaper and a radio station.

MR. FOZ: If the radio operates outside Metro Manila and the newspaper is here in Metro Manila, it would not be prohibited.

MR. MONSOD: The Commissioner and I know that from a technical point of view that is not possible because radio travels by air waves, unless he is talking of blocking out deliberately the signal in Metro Manila, which is a very impractical solution.

MR. FOZ: Radio depends on its strength. If it is given only so much power, then it cannot reach nationwide.

MS. ROSARIO BRAID: Yes.

MR. FOZ: It is to confine to its own area under existing regulations.

MR. MONSOD: But the Commissioner's answer to my question earlier is that the provision does not preclude a

company to own a radio station that caters to Luzon, Visayas and Mindanao.

MS. ROSARIO BRAID: Yes.

MR. MONSOD: The Commissioner said that that is allowed.

MR. FOZ: That would be allowed because one of the limits or considerations is the market area.

MS. ROSARIO BRAID: Yes.

MR. MONSOD: Maybe at the proper time we may have to clarify.

MS. ROSARIO BRAID: Yes. May I just add that there are very few radio stations that reach the whole country. There are very few operating on a power of 50 kilowatts.

MR. MONSOD: There are several, Mr. Presiding Officer.

MS. ROSARIO BRAID: As a matter of fact, there are only three or four which operate on a power of 50 kilowatts and the rest are just 10 or five, in which case the area is limited. So we are looking at radio in terms of strength which penetrates the entire country.

MR. MONSOD: I just want to ask one question again. In the case of Malaya, it publishes Malaya, Midday and Masa. If there is a majority interest of one group in each of these three, this would not be prohibited. Would this now be prohibited if, for example, a family enterprise or corporation owns the majority interest? I believe this is published by one corporation.

MR. FOZ: It is the same corporation.

MR. MONSOD: I repeat: Would this now be prohibited? Is Malaya now going to be obliged to publish only one of these three dailies in Metro Manila?

MS. ROSARIO BRAID: May I respond, Mr. Presiding Officer. If their market is similar but one caters to an interest group, such as a Tagalog-speaking group and the other is a nationwide newspaper, then it will be allowed. We are talking of a reader market here.

MR. MONSOD: What does the Commissioner mean by a reader market? I am really confused because what the Commissioner seems to be saying is that if the same publishing company publishes one daily in English and one in Tagalog, then it would be serving different markets. Is that the Commissioner's definition of a single market?

MR. FOZ: No, Mr. Presiding Officer. In the case of let us say, Malaya which has three publications, Ang Pahayagang Malaya is the main publication. The other two are just sister publications. Perhaps in this regard, an exception may be made because they are published as sister publications. One of them is in Tagalog and the other one is an afternoon daily.

MR. MONSOD: Is that the reason they are now defined as operating in different markets?

MR. FOZ: No, I am not saying that. I am just saying that this may be an exception to the general rule.

MR. MONSOD: The constitutional provision certainly does not reflect the possibility of that exception.

MR. FOZ: Yes, because this provision is not a self-executing provision and it will have to be implemented by law which will flesh out the details of this provision. And I think exceptions will have to be admitted and included to cover certain situations.

MR. MONSOD: So this is an exception that might be possible.

MR. FOZ: Yes, that is possible.

MR. MONSOD: And this is less a contravention of the intent of the committee than if a company owns one radio station and one newspaper publication.

MR. FOZ: That is a general rule, and the situation the Commissioner mentioned may be an exception, Mr. Presiding Officer.

MR. MONSOD: So that could also be an exception. A company may own one radio station and one newspaper publication.

MR. FOZ: No, that is covered frontally by the prohibition.

MR. MONSOD: So, in that other instance where one publisher publishes two newspapers during the day, in fact, Malaya publishes three, the Commissioner says that the latter can be treated as an exception but the former is not.

MR. FOZ: Yes, of course, because one is in Tagalog or in Pilipino and the other one is an afternoon daily. Maybe that should be considered as an exception. But definitely for a newspaper publisher to own a television station runs smack against this prohibition.

MR. MONSOD: So, if Manila Bulletin publishes its usual regular copy and its evening edition, it would not come within the prohibition of this Constitution.

MR. FOZ: Personally, I would say that that would be an exception.

MR. MONSOD: Then, we are not achieving our purpose.

MR. COLAYCO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Colayco is recognized.

MR. COLAYCO: May I ask another question of Commissioner Foz? What is the Commissioner's concept of the word "market"?

MR. FOZ: "Market" refers to a geographic unit, it may refer to a region. If we divide the Philippines into three — we have Luzon, Visayas and Mindanao.

MR. COLAYCO: Does the Commissioner mean that if a person owns a newspaper publication in Davao City, he cannot own another newspaper anywhere in Mindanao?

MR. FOZ: Perhaps, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer, I believe I still have the floor. May I just finish?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Colayco, may we allow Commissioner Monsod to finish?

MR. COLAYCO: I am sorry, Mr. Presiding Officer, I thought he was through.

MR. MONSOD: I just wanted to say that I am going to propose amendments because it seems to me that the Commissioner is splitting hairs when he says that one kind of exception is allowed but another is not allowed. When he says that single market is defined in terms of geographical area, then the more the case of Malaya should come within the prohibition. I am a little concerned about his statement that it should be an exception. I do not see why he would be able to justify an exception in that case and yet be absolutely prohibitive of a radio station and a newspaper publication combination.

MR. FOZ: The reason, Mr. Presiding Officer, is that they belong to different mediums.

MR. MONSOD: But the Commissioner gave us the example earlier that the intent of this provision is to cover two instances. In answer to Commissioner Colayco, the Commissioner was talking about owning a newspaper publication and a radio station which is prohibited. But he also said that one cannot own more than two newspaper publications. At the same time, he said that if, in fact, it is a sister publication, and is published in the afternoon but still serving the same geographic area, he would consider it an exception.

MR. FOZ: It is an exception because there are a lot of factors involved. A proprietor cannot just go on publishing, let us say, five newspapers in Manila. That will be foolish.

MR. MONSOD: Suppose he wants to be foolish, is the Commissioner going to prevent him?

Section 14 states: "Wholly-owned Filipino corporations shall be given priority to domestic credit facilities."

MR. COLAYCO: Mr. Presiding Officer, may I have an additional question on Section 11?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Monsod still has the floor. Will Commissioner Monsod allow Commissioner Colayco?

MR. MONSOD: Yes, Mr. Presiding Officer.

MR. COLAYCO: Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Colayco is recognized.

MR. COLAYCO: I would like to go back to the definition of market. So the Commissioner would define market in the geographical sense?

MR. FOZ: Yes, in the geographical sense, Mr. Presiding Officer.

MR. COLAYCO: Not in the sense of extent of circulation of the newspaper?

MR. FOZ: No.

MR. COLAYCO: So, therefore, Luzon would be considered one single market.

MR. FOZ: Maybe, Mr. Presiding Officer.

MR. COLAYCO: What does the Commissioner mean by "maybe"? We want to know what is his idea.

MR. FOZ: That would be an idea.

MR. COLAYCO: Even a very small tiny island would be considered a separate market?

MR. FOZ: No, because that is too small.

MR. COLAYCO: So it would seem, therefore, that the committee does not have a very fixed concept or idea of the word "market." I want to find out the Commissioner's idea preparatory to any proposal for amendment.

Thank you very much.

MR. MONSOD: Mr. Presiding Officer, I just want to clarify.

When the Commissioner talks about geographic area, he is talking about an area that can be reached by that form of media. So when we are talking about radio, it is very easy in that case because we are talking about signals and power of the station. But what about newspapers? The entire country is accessible to any newspaper. So by

definition, is the Commissioner saying that the single market in the question of print is really the entire country? It is capable of being reached. The Manila Bulletin can go to the smallest island, maybe one week late, but it still can.

MS. ROSARIO BRAID: Yes, except provincial newspapers which are limited to a particular province, and there are hundreds of these. Although we can get past copies of newspapers in Cebu, however, we could always say that the geographical area of Cebuano speaking within the area of Cebu would . . .

MR. MONSOD: Would Manila Bulletin be prohibited from setting up a newspaper in Mindanao?

MR. FOZ: Of course not; it is not covered.

MR. MONSOD: Would they be covered?

MR. FOZ: No, they would not be covered.

MR. MONSOD: But that is a market — the Manila Bulletin reaches Mindanao. Suppose it sets up another newspaper in Mindanao? It will have two newspapers in a single market.

MR. FOZ: But the Manila Bulletin is based in Metro Manila.

MR. MONSOD: Mr. Presiding Officer, I do not know what the Commissioner means by "geographical area," because certainly Manila Bulletin reaches Mindanao, and by his definition that is a single market.

MR. FOZ: Yes, its circulation is supposed to be on a national scale.

MS. ROSARIO BRAID: Yes. I think "market" here will really be defined further. But the idea we want to give here is that the Manila Bulletin and 22 others reach the national market. And if the Manila Bulletin desires to publish a community newspaper that will only reach, for instance, Davao, it cannot be.

MR. MONSOD: So that will be another exception?

MS. ROSARIO BRAID: The reason behind is that the community newspaper in Davao will only reach a certain geographical area. The Manila Bulletin will be prohibited from publishing two national newspapers that are read by the entire country where there is a potential readership.

MR. MONSOD: Yes, but what the Commissioner is saying is that that is another exception, because the Manila Bulletin can also reach Camiguin Island. So, in effect, in that instance, Manila Bulletin has two newspapers reaching Camiguin. Would that not come under the prohibition?

MS. ROSARIO BRAID: No, that is not what I said, it is allowed to publish one national newspaper which is Manila Bulletin. But if it sets up a newspaper that can only reach a particular region in its dialect, that is a different market.

MR. MONSOD: So the Commissioner's definition of "market" does not mean purely geographical area. She is also stratifying "market" in terms of language, dialect, or editions, whether morning or afternoon. Am I correct?

MS. ROSARIO BRAID: Yes, the Commissioner is correct.

MR. MONSOD: So will all of these be exceptions to the general rule?

MS. ROSARIO BRAID: Yes, to the general rule. What we are referring to is: In one single market, here is a newspaper of national circulation that has the capacity to penetrate, to be read or to be heard by the entire country.

MR. MONSOD: Yes. I am only trying to get the Commissioner's definition of "single market." What she is saying

is that the definition should be further classified in terms of morning and afternoon editions, national and regional circulations, Filipino and other dialects, et cetera.

MS. ROSARIO BRAID: Yes.

MR. MONSOD: So, as long as we have all of these permutations, this prohibition will not apply. Am I correct?

MS. ROSARIO BRAID: This will apply, if we redefine it as a single market, national market.

MR. MONSOD: Let me go back to the original objective which was to prevent "monopoly of the news." If we allow this kind of stratification in the definition of "single market," it is, in fact, possible for the Manila Bulletin to have a morning and afternoon, a Cebuano and Tagalog, a national and regional, newspaper. So it will have six newspapers available, say, in Cagayan de Oro, and that would not be prohibited by the provision. Am I correct?

MR. FOZ: That is a little improbable, Mr. Presiding Officer.

MR. MONSOD: But we are not talking here of whether it is prohibited or not. What I want is the Commissioner's rule, because that is not really improbable. Malaya itself has 3 newspapers which is operating, in the Commissioner's definition, in different markets — the English newspaper, the Tagalog newspaper and the afternoon newspaper. That is not an improbable speculation; it is actually existing and the Commissioner is saying it is an exception.

MR. FOZ: I said "improbable" in the sense that it runs against common economic sense. That is what I mean.

MR. MONSOD: Mr. Presiding Officer, we are not enacting a provision in economics; we are enacting a provision on communications. There are people who are willing to have loss leaders in their publications, and we know that there are publishing companies that are willing to have a loss leader in one form in order to gain as a total.

So the economic argument is not really relevant to this provision.

MS. NIEVA: Mr. Presiding Officer, may I ask a clarificatory question?

Is it possible that the committee is not objecting to these stratifications which Commissioner Monsod mentioned? The Commissioner is saying that these are exceptions because they are owned by the same corporation. And what we are trying to aim at is that one body or one owner will not control media in such a way that it will monopolize the source of news. But if it is one body that publishes newspapers in the morning or in the afternoon, that is still the same. I think I am not clear about the objection of Commissioner Monsod. I would like also to be clarified on that.

MR. MONSOD: What I am only trying to drive at is that the stratifications and classifications of the committee are not justified, because one can also argue that we must stratify our radio listeners from newspaper readers. Maybe there is even more basis for classification, that they are not operating in a single market even if there is perhaps some overlap. I am just trying to get to the criteria of the committee on what is a single market as far as the interpretation is concerned.

REV. RIGOS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Is Commissioner Nieva through?

MS. NIEVA: No, I think there are still some doubts in my mind as to what really are the implications of this provision.

MR. MONSOD: Mr. Presiding Officer, maybe Commissioner Nieva can stand up later to interpellate in her own time.

Can I just go on because I want to finish my interpellation? I am sure that others have questions on the same point.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Davide is recognized.

MR. DAVIDE: I was designated by the Floor Leader to act in his behalf for a time. I would like to announce the following who have registered to speak in the order they are listed: after Commissioner Monsod, we have Commissioner Quesada, then Commissioner Uka, followed by Commissioners Colayco and Rigos and then Commissioner Ople.

MR. MONSOD: Mr. Presiding Officer, I just want to say that I am not for monopolies. I think we all agree that we want to avoid monopolies, but we also want to make sure that the provisions in our Constitution are not discriminatory on the basis of artificial or non-substantial criteria.

In Section 14, when we talk of "wholly-owned Filipino corporations shall be given priority to domestic credit facilities," I believe this is already covered in the Article on National Economy and this is a subject matter that properly belongs to the said article.

We read the section on National Economy, which, as proposed by Commissioner Gascon, states: "The State shall encourage wholly-owned Filipino corporations." In that section, I think it was agreed that the encouragement or incentives to wholly-owned Filipino corporations would include access to credit on a preferential basis.

So I do not know whether or not it is still necessary to put this provision here because this is a proper area of national economy. It is already covered in a particular section in the Article on National Economy.

MS. ROSARIO BRAID: This was approved before that additional amendment. If the Commissioner will remember, that was added after the National Economy Article was approved. We included this because it did not appear in the first draft.

MR. MONSOD: I see.

MS. ROSARIO BRAID: So with the Commissioner's manifestation, we can amend or delete this.

MR. MONSOD: Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

MR. DAVIDE: May I request the recognition of Commissioner Quesada to interpellate the committee?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Quesada is recognized.

MS. QUESADA: Thank you, Mr. Presiding Officer.

I have some clarificatory questions in Section 3, line 13, which says:

No elective or appointive public officer or employee shall receive additional, double or indirect compensation; except pensions or gratuities, unless allowed by law, nor accept, without the consent of the Congress, any present, emolument, office or title of any kind from any foreign state.

May I just know whether or not this assignment or appointment in any foreign state referred to on line 17 includes United Nations assignments? For instance, we have cases of officials who, through a United Nations assignment, are appointed on special detail to a foreign country.

MR. MAAMBONG: Actually, the reason why we have this prohibition is that our law prohibits citizens of the Philippines from taking an oath of allegiance to another country.

For example, if one receives an office, gets a title or works for a foreign government, the natural consequence is that he has to take an oath of allegiance before that government. And this would violate our Commonwealth Act 63 regarding the loss of citizenship.

However, there are exceptions. In the same Commonwealth Act 63, if one serves in the armed forces of another country and it is with the consent of the Philippine government, he does not really lose his citizenship. In the same manner, I would like to venture an opinion that if one serves in the United Nations and it is with the consent of the Philippine government, then he will not violate any provision of law.

So the Commissioner's question is whether serving in any capacity in the United Nations, as long as one does not take an oath of allegiance to any country, will be covered by the prohibition.

MS. QUESADA: So this provision then does not prohibit the direct assignment of an official by the requesting government, if the Filipino official does take an oath of allegiance to that foreign country.

MR. MAAMBONG: Yes, that appears to be the operative act under Section 1(3) of Commonwealth Act 63, which says that once an official takes an oath of allegiance to support the constitution and laws of a foreign country, he loses his citizenship. This is the reason why we need some form of clearance from the government.

Incidentally, I recall in the last Batasan that there was an order which gave an honor to one of our eminent Members, Speaker Jose B. Laurel, Jr. It is the Order of the Rising Sun from Japan. And because he had to accept it, there was a resolution passed by the Batasang Pambansa allowing him to receive that order.

MS. QUESADA: On the next paragraph, lines 19 to 22, we have this provision:

Unless required by law, neither should he hold any other office or employment in the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations.

In a sense, would this prevent moonlighting? There is a common practice in the government where, because of low pay, employees go on moonlighting in some other government-owned or controlled corporations and in private institutions. Would this provision now penalize anybody who would be found guilty of moonlighting or accepting any other employment?

MR. MAAMBONG: Actually, the term "moonlighting" has no clear legal significance under the law but as applied to policemen, for instance, considering their very low income, sometimes after their off-duty hours, they work somewhere else, like guarding private establishments. The government had been very strict about it in the past, but lately I learned that considering the financial situation of government employees, the Office of the President has relaxed this rule.

However, when one works in a private establishment after his office hours, there seems to be no constitutional violation there. What we are trying to say in this provision is with reference to other office or employment in the government. In other words, he is actually holding on to two offices in the government. If he holds on to another office in a private establishment, it does not appear to be covered by this prohibition.

I also mentioned yesterday, and I might as well inform the Commissioner, that we added here the phrase "unless required by law" because of our concern during the deliberations of the Committee on the Legislative when I was interpellating the honorable chairman, Commissioner Davide. I took note of the fact that there are indeed officers of the government, like members of the Supreme Court, who are required by law to constitute themselves as a Presidential Electoral Tribunal and unless we have this phrase "unless required by law," then they may be

violating the provision of the Constitution. There are also Members of Congress who will hold on to the Office of the Electoral Tribunal of the House of Representatives or the Senate Electoral Tribunal. That is the reason why we inserted the words "unless required by law."

MS. QUESADA: I thank the Commissioner for the clarification.

Section 9, lines 26 to 28, states:

It shall promote a comprehensive communications policy and establish an appropriate information system among the various sectors.

Does the committee contemplate of a privately initiated or established body that would come out with a comprehensive communications policy or is this a state-initiated communications policy?

MS. ROSARIO BRAID: "State-initiated" in the sense that the government may bring together different sectoral representatives that could work out their own communication policies within certain guidelines; for instance, the promotion of capability in, say, production — coming up with an adequate production base in terms of radio/television programs, strengthening perhaps its own national news agency that can develop improved reporting; strengthening rural radio and rural newspapers; coming up with its own codes of ethics within the general guidelines of criteria of, say, better balance in programming and the need to link the country with the Asean countries and the global village network. This is so because we cannot remain isolated from all the developments in communications technology. I think we have to plan out some stand or policies on the new communications technology. For instance, in other countries such as Europe, they prevent the undue erosion of their culture through direct broadcast satellite by coming up with what they call "technical and economic filters," making it expensive to buy certain technology such as receiving equipment or by not being able to receive certain broadcasts.

In Canada, they do it by improving their program development base — producing their own local programs. Here, we can do it through media education which will inculcate appropriate standards that will enable the viewer, the listener or the reader to select program and information materials that are suitable to our culture. So these are ways by which we come up with communications policies within a broad national policy. But it will not be a government body coming up with an overall state policy.

MS. QUESADA: I am glad to hear that because, if the Commissioner will recall, the objection of the body during the last time when she talked about communications in the Article on the Declaration of Principles was the fear that there will be state intervention, and the idea of censorship is something press people would really be afraid of. But, nonetheless, I think there was a very laudable concept — the concept of social responsibility of the media people — which seems to have been rejected because of that fear. I was wondering whether or not it is something that the communications policy ought to consider because I think what is very badly needed in our country today — how responsible media should be without necessarily being afraid of state infringement of our basic freedom of the press.

So would this concept be covered in this policy which the Commissioner said need not be state-established but could involve the private sector, even the media people themselves? For example, we have the Philippine Media Council. Is it something like that? Or, we have the Philippine Press Institute which undertakes the policing of the media without having the State coming in because that is the fear.

MS. ROSARIO BRAID: Yes, we have the Philippine Press Institute, the Press Foundation for Asia and the Kapisanan ng mga Broadkaster sa Pilipinas which are self-regulatory agencies that try to police media people in their own ranks, to try to come up with a code of ethics. I think the need for self-regulation and social

responsibility should be strengthened through training programs, professional development programs and other such schemes that could be encouraged by the State. In today's column, Belinda Cunanan quoted Dr. Abueva and many others who have made the same comment about the need for more social responsibility among practitioners. But this need not be mandated by the State although it can provide the climate. As I said earlier, media communicators have been left out in terms of incentives for professional development. And this is an intent for the State to provide incentives in the form of tariffs, tax incentives for struggling newspaper publishers and scholarships for those who work with noncommercial forms of media.

MS. QUESADA: I thank the Commissioner for expanding the coverage of such a communications policy.

I will now go to Section 10 (2), page 3, line 4. This was the earlier concern also of Commissioner Monsod. It states:

The State shall protect the public from misleading, harmful, deceptive and colonial advertising, labelling and other forms of misrepresentation.

His concern was how this can be operationalized. What are some of the minor details that would, in a way, require some kind of criteria on what is colonial, harmful, deceptive and misleading advertising?

Is the committee also envisioning a multisectoral body that would effect this kind of policing? In particular, I am interested in the health care industry. We know for a fact that we are exposed to very deceptive and misleading advertising. As a matter of fact, we take a lot of vitamins and pills which media project as something people really need more than they need food and all other basic commodities. So, on the concern of Commissioner Monsod as to who will determine whether advertising is deceptive or misleading or not, it will be the concern of the State, except those with scientific basis. A case in point is Yakult, which is being projected as a drink that would make one young and reenergized.

MS. ROSARIO BRAID: Yes. I think this provision is related to the provision on consumers where the State could encourage consumers groups or citizens groups that could lobby for better programs, better products and better advertising. But I think what the State can do is just to promote the environment. It could also police even the ranks of consumers groups because there are consumers groups that are not really working for the benefit of citizens. So we hope this provision would encourage more vigilance in the industry and also the public.

MS. QUESADA: Yes. But the essence here is that in spite of the efforts of the private sector, such as the consumers groups, there is still need to have a regulatory body. Even if we know what the advertisers are doing, unless there is a body, like the Bureau of Food and Drug Administration in the Ministry of Health, to counter advertising which actually sells products that are harmful to the people then, the consumers or the consuming public will not be protected.

In effect, what this provision intends to do is to protect the consumers.

Would the Commissioner, therefore, not say this section is somehow related to another section, Section 16, which has something to do also with the protection of consumers?

MS. ROSARIO BRAID: Yes. I mentioned earlier that this is related to consumers' rights although the section on consumers is broader. It will take into consideration other commodities, products and services beyond communication and advertising.

MS. QUESADA: Section 11, line 19, has something to do with telecommunications. I remember that this has been discussed in the Article on National Economy, but I just like to get the Commissioners' idea on why there has to be another provision in the General Provisions for this particular public utility.

MS. ROSARIO BRAID: Commissioner Nollado will answer that.

MR. NOLLEDO: Mr. Presiding Officer, in yesterday's interpellation, I stated that the term "public utility" covers transportation which shall include land, sea, water transportation, and, possibly, ferry service and also electric service, maintenance and operation of ice plants and telecommunications. We in the committee feel that telecommunications involve national security and, as much as possible, should be in the hands of Filipinos. We are actually adopting the original report of the Committee on the National Economy and National Patrimony which stated that two-thirds of the capital here should be owned by citizens of the Philippines. Unfortunately, the body, with respect to public utilities in general, voted for the 60-40 equity. That 60-40 equity, to our mind, Mr. Presiding Officer, existed in the 1935 Constitution; it also existed in the 1973 Constitution; it likewise exists in the Freedom Constitution, and it seems to me that there is no improvement. We feel that the Filipino participation should increase in some way, and when we increase it by two-thirds from 60 percent, that increase should be a progress by itself.

Believing that the area of telecommunications is a delicate one in the national interest, we are once more appealing to the Members of the Commission to please support this proposal, Mr. Presiding Officer.

MS. QUESADA: Mr. Presiding Officer, one of the claims is that we may not have the resource capability — material and manpower — to be able to launch or to be really in control of such public utility so vital, as the Commissioner said, as telecommunications. Would the Filipino telecommunications sector agree that they are capable of managing or even owning such enterprise?

MR. NOLLEDO: Mr. Presiding Officer, I do not need to discuss this aspect of capability because in the communications sent to the Members of this Commission, especially by a certain Mr. Morales who heads a telecommunications association controlled by Filipinos, it is indicated that Filipinos have the capacity and expertise. Besides, they have also tie-ups with foreign companies without necessarily destroying the equity that we are recommending.

MS. QUESADA: My last question will be in Section 13, on population policy. Would the approval of this provision change the present population policy of the country?

MS. ROSARIO BRAID: Commissioner Bacani will answer the question.

BISHOP BACANI: The Commissioner will notice that the first sentence has wider scope than what is contained in the 1973 Constitution. The sentence in the 1973 Constitution already contains a policy. It does not only say that it is the responsibility of the State to formulate policies but there is the formulation of a policy. And what is that? "The State shall achieve and maintain population levels most conducive to the general welfare." The first sentence of this does not state that anymore. So the State is free to formulate what policies it has and it can, of course, backtrack against the policy that is stated in the 1973 Constitution. What it just says is:

It shall be the responsibility of the State to adopt population policies most conducive to the national welfare.

The second sentence is a limitation of the first sentence based on the natural right of the parents to determine the number of their children, and they are not compelled to act against their conscience.

MS. QUESADA: I am glad to hear that because we have adopted a policy that has legitimized the use of certain birth control methods which women and many consumer-oriented groups in the Philippines and all over the world have deplored and protested. I am referring to the official use of depoprovera, an injectable contraceptive.

BISHOP BACANI: Yes, I mentioned that is one of the aspects of the implementation of the past policy that is very deplorable. And it is precisely to veer away from that definite policy itself, from adopting it explicitly in the

Constitution that this first sentence was modified.

MS. QUESADA: Would this also include the prohibition of sterilization methods which are now being popularized and institutionalized, as a matter of fact, in many hospitals?

BISHOP BACANI: Yes, but that will have to be reviewed and rejected, if found to be contrary to the general welfare.

MS. QUESADA: When the Commissioner says "general welfare," what exactly does he have in mind?

BISHOP BACANI: I mean the good of the people as a whole, especially the women concerned and their children who may be affected.

MS. QUESADA: What happens now to the assistance program that has already been approved by international bodies, like USAID, which in the past have always supported many of our population programs, not only in terms of material assistance but including training scholarships, fellowships and other services. Would the approval of this policy statement now affect such agreements that are being entered into by our government with the funding agencies?

BISHOP BACANI: The government will, at the very least, ask for a review of those. For example, if they are found to be an imposition which militates against the freedom of our country and that of individuals and the freedom guaranteed by this Constitution, then they will have to be rejected.

MS. QUESADA: And as I had asked earlier, Commissioner Villegas, on the implications of the adoption of this policy, would this provision imply a rethinking also in the way health providers are being compelled to promote certain methods which run contrary to their beliefs? We have adopted a provision on the right to life of the unborn from the moment of conception. Would providers of health or family planning services have any liabilities as part of the providers of services? This is a concern that some have expressed to me when they heard about our deliberations on this issue.

BISHOP BACANI: Yes, they will have to be monitored for that. I do not know to what extent the State can go around pursuing people who violate this. But let me tell the Commissioner officially the policy of the Population Commission. At present, the policy is said to be noncoercive, nonmanipulative; it is in the implementation that the wrong is done. That is why many people are suggesting, and it is something that we ought to consider very seriously, that the policies themselves should be reviewed, or that we give the people of a certain agency, like the Population Commission, power to set definite policies by itself. In other words, they will have to be watchful of the violations of the conscience of people and their right to health.

MS. QUESADA: Would another practical implication of this constitutional mandate be a shift in the Population Commission orientation?

BISHOP BACANI: Of itself, it does not say that there will be a shift.

MS. QUESADA: Would that be an implication?

BISHOP BACANI: That is a possibility.

MS. ROSARIO BRAID: Mr. Presiding Officer, there is already a recommendation to this effect that it be restructured to become a population board and link itself with the UP Population Institute and other institutes that are undertaking studies of other nonfamily planning forms of ensuring balance in our population growth. So with this type of thrust, I think there will be a review of all kinds of assistance given to the Philippine government.

BISHOP BACANI: The thrust of the 1973 Constitution provision was definitely population control, and it may no

longer be the same thrust. In other words, there is no longer any constitutional mandate for that definite thrust.

MS. QUESADA: So with these explanations, then I suppose the committee is bent to ensure that this provision remain in the General Provisions and not be deleted. We have now a different interpretation of what population policies should be. The Commissioner agrees in principle that there should be such policy to be directed to the upliftment of the welfare of the people instead of just controlling population growth.

BISHOP BACANI: Yes. At least we would like to keep the sense. I do not know what the body would think about it, but the whole Commission should decide. In case the State does formulate policies, it should always be what is most conducive to the national welfare and not because of impositions from outside.

MS. QUESADA: I agree with the Commissioner on that score.

MS. ROSARIO BRAID: Let me add. I think it is important to keep this provision because, as we know, our growth rate has increased. We reached 2.4 at one time and now it is 2.6. We have evidence bearing negative scores in comparison with the other Asian countries. So we must study the various factors beyond family planning that will ensure stable population growth.

MS. QUESADA: Yes, and I think I would agree with the thrust that would put a high premium on welfare — social services, like education. For example, in Singapore, Prime Minister Lee Kuan Yew sparked a controversy when he stated that it is the higher education of Singaporean women that has contributed to fewer children. So I think if we improve one area of our social life, such as the education of women and also delay opportunities for being participants in the productive processes of society, then it will come as a natural consequence that women or families will desire for less children. Hence, we do not have to have a very strong population program to be able to achieve that goal of limiting population according to the levels of society we will be able to afford.

Thank you, Mr. Presiding Officer.

BISHOP BACANI: What is very important is that with this formulation, there would no longer be a constitutional mandate to pursue a population control policy, rather a population welfare policy will be sought.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Davide is recognized.

SUSPENSION OF SESSION

MR. DAVIDE: Commissioner Lugum Uka has a very long interpellation on several questions; he does not want to be interrupted by the midday suspension. So may I request that we suspend the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair suspends the session until two-thirty this afternoon.

It was 12:32 p.m.

RESUMPTION OF SESSION

At 3:02 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Rodrigo): The session is resumed.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Uka be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Uka is recognized.

MR. UKA: Mr. Presiding Officer and distinguished colleagues: I am opposed to the deletion of Section 2 of the General Provisions which reads:

The Congress may by law adopt a new name for the country, a national anthem, and a national seal, which shall be truly reflective and symbolic of the ideals, history, and traditions of the people.

I am for the retention of this particular section. I consider this section important because it is a fact that the present name of our dear country is not reflective and symbolic of the ideals, history, traditions and aspirations of our people. The name "Filipinas" or "Philippines" was given by Ferdinand Magellan, the first landgrabber in our country and Portuguese adventurer who served under King Philip II of Spain. To perpetuate the memory of the Spanish king, King Philip II, Magellan claimed our country in King Philip II's name; hence, Philippines or Pilipinas. Unfortunately for Magellan, he was killed by our native leader, Lapu-lapu, in the Battle of Mactan 465 years ago. Up to this time, Magellan's body has not yet been recovered. His soldiers left him dead. Perhaps, it was eaten by a large fish called "lapu-lapu." But our people honored him by putting up a multimillion-peso monument, the massive Magellan monument in Cebu. We also set up a small naked monument for Lapu-lapu many years later. So, my friends, we can see that the present name of our country was imposed on us by Ferdinand Magellan, a foreign invader who led the Spanish colonizers who enslaved our people for nearly 400 years. This name was not our choice. It was imposed on us by colonizers. And now that we are an independent or a sovereign nation, do we not think that it is high time and that it stands to reason that we select for our country a name which is our very own and may truly be reflective and symbolic of the ideals, history, traditions and aspirations of our people, a name that we can be proud of? Other countries have changed their colonial names after they became independent or sovereign, to wit: British India is now India, East Pakistan now Bangladesh, Portuguese Ceylon is now Sri Lanka; French Indochina is now North and South Vietnam; British Malaya is now Malaysia; Dutch East Indies is now Indonesia; Siam is now Thailand; and Persia is now Iran.

I can name many more countries that, upon acquiring independence, adopted new names for good reasons.

Some would argue that the name "Philippines" has already acquired prominence or popularity among the nations and through the passage of time. It is a fact of history, they say. Granting that this is so, my friends, but a historical wrong or injustice done to a people cannot be morally correct through the mere passage of time. It is still morally wrong and unjust. It must be corrected especially by the people who are the victims of such injustice. Besides, why should our country and our people be named after a conqueror or colonizer? It is painful and certainly not complimentary to state here that we are the only people in the world today that honor their conquerors. It is a fact that we name our streets, barrios, towns and cities after Spanish colonizers or conquerors. Why should we honor our conquerors? We have enough heroes of our own to honor. No self-respecting people honor its conquerors or colonizers.

Do my colleagues know that the name "Filipino," during the Spanish time was applied only to full-blooded Spaniards born in the Philippines and was never applied to our native brown people who are our ancestors? All part-blood Spaniards were known as mestizos. The natives were called "Indios" or "Indians." Read your history of the Philippines, my friends, and you will agree with this fact. The other natives of our country who were Muslims and who were never conquered and were hated by the Spaniards, were called "Moros" because of their affinity or similarity to the Moors or Moros of Morosco who occupied Spain for nearly 800 years.

We only adopted the name "Filipino" after the colonizing Spaniards left our country when they were defeated by the Americans in the Spanish-American war of 1898. So, my friends, to retain the present name of our country,

Philippines, will perpetuate the colonial mentality among our people because we will forever carry the stigma of a conquered or colonized people. It is all right to adopt foreign names for individuals like us, but for our country that is a different matter because all of us are affected. For our country to retain a stigma of colonization or conquest, that is too much for us. Realizing this situation, the 320 elected delegates to the 1971 Constitutional Convention provided in the 1973 Constitution this same Section 2 of the General Provisions. For the same reasons, my friends, I am for the retention of this section which will give the representatives of our people in Congress power to give a new name for our country which will be truly reflective and symbolic of our ideals, history and traditions as a free and sovereign people.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: Will the Commissioner yield to one question?

MR. UKA: Very gladly, Mr. Presiding Officer.

MR. RAMA: What name does the Commissioner have in mind to replace the name "Philippines"?

MR. UKA: I am thinking of many names after our own heroes. I am thinking of the name "Republic of Bayanihan." If you are a citizen of that republic, you are a "bayani." And who is not a Filipino bayani today? I was thinking of our other heroes like Rizal or even Lapu-Lapu. But, of course, I hesitate to call it "Lapu-Lapu" because we eat the fish known as lapu-lapu. And that is not good.

MR. RAMA: I thank the Commissioner.

MR. NOLLEDO: Mr. Presiding Officer, may I ask one or two questions?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Nolleddo is recognized.

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

If we name our country "Lapu-Lapu," how do we call now the inhabitants of our country? Would we call them "Lapu-Lapuhans." (Laughter)

MR. UKA: If we call this country "Lapu-Lapu" we will be fishermen. That is not very good either, so let us think of a better name.

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

MR. ABUBAKAR: May I raise a question?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Abubakar is recognized.

MR. ABUBAKAR: Because of the Commissioner's presentation to change the name of the Philippines which was inspired by his historical knowledge of the antecedent preparatory to the naming of the Philippines, and in order to dissociate once and for all any vestige or style of colonial Philippines under Spain and America, we would like to adopt a new name.

MR. UKA: If possible, we would like to adopt a new name that will be truly reflective of the history, ideals and aspirations of our people.

MR. ABUBAKAR: Therefore, it would be appropriate to incorporate in the Constitution a proviso declaring, as the sense of the Commission, that a new name be given to the Philippines, the work of looking for this new name for the Philippines being entrusted to the Congress of the Philippines, inasmuch as it might be difficult to

incorporate this as a constitutional provision. But it can be mandated. The Constitution can contain a proviso mandating that the lawmaking body of the Philippines, after the ratification of the Constitution, shall constitute a commission to delve into the history of the Philippines and look for a name appropriate to the dignity of its people, to its historical past colored by bravery and all that, and adopt an appropriate name that will signify not only our independence but our courage, unity and struggle as depicted in our history. Would that not be an appropriate proviso to be embodied in the Constitution?

MR. UKA: If that is possible for the 47 Commissioners, then why not? If that is agreeable to us 47 Commissioners, it would be nice. But I think our people will have to be consulted first in a referendum or plebiscite on this matter.

MR. ABUBAKAR: Yes, because I believe that those who will vote against the proposal will not be necessarily "colonialists" but lacking the courage to assert that the Filipino do not owe their independence or their courage to anyone but to themselves alone. Therefore, we can incorporate that signal courage in our Constitution.

MR. UKA: In the meantime, let everyone of us Commissioners think of a good name. Let us act like the father of a child who needs a name. Let us act like a husband whose wife is pregnant and about to give birth to a child and think of a good name.

MR. CALDERON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Calderon is recognized.

MR. CALDERON: May I ask a question of Commissioner Uka?

MR. UKA: Very gladly, my friend.

MR. CALDERON: Does the Commissioner have any objection to the use of "Maharlika" as a name of our country?

MR. UKA: "Maharlika," I can hardly pronounce it. Maybe if it is "Mahal," it is all right. But "Maharlika" . . . "Mahal, halika . . ." (Laughter)

MR. CALDERON: I ask because that was what President Marcos advocated — that we change the name of the country to "Maharlika." And assuming that we could change the name of our country to "Maharlika," how will we now call the citizens or residents of the country?

MR. UKA: Yes, that is a problem. It can be "Maharlikans" or "Maharlikano." It does not sound good. Let us get a name that is more musical than that.

MR. CALDERON: Perhaps, the male might be referred to as "Maharloko" and the women, "Maharloka." (Laughter)

MR. UKA: That becomes even harder and unpleasant, my friend. So we think of that name "Republic of Bayanihan" and we will all be called "bayanis" as citizens of the republic.

MR. CALDERON: Thank you, Mr. Presiding Officer.

MR. RAMA: May I ask that Commissioner Jamir be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Jamir is recognized.

MR. JAMIR: Will the Gentleman yield to one or two questions?

MR. UKA: When I first spoke, I told my fellow Commissioners not to ask very many questions. Now the

questions are multiplying, but I will answer each question.

MR. JAMIR: Section 2 refers not only to the name of our country but also to a national anthem. Is the Commissioner willing that our national anthem be changed by a mere law of Congress?

MR. UKA: Does the Commissioner mean the one that we sing here everyday?

MR. JAMIR: Yes.

MR. UKA: I like that. I love that national anthem. I only want the name "Philippines" changed, if possible.

MR. JAMIR: So is the Commissioner against its being changed by a mere law, by a congressional statute?

MR. UKA: Which one is to be changed, the national anthem?

MR. JAMIR: Yes.

MR. UKA: We should not changed that. That is all right.

MR. JAMIR: So the Commissioner is not in favor of changing it by a mere congressional act. Am I right?

MR. UKA: Any change will be all right provided there is a change in the present name of our country.

MR. JAMIR: Is the Commissioner also in favor of changing our national seal? This section includes also the seal.

MR. UKA: How does the seal look like now? I am confused. Does it look like that one in front of us?

MR. JAMIR: No, that is the seal of the Constitutional Commission.

MR. UKA: I see. The seal is all right.

MR. JAMIR: Those are all the questions I have. I thank the Commissioner very much.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Colayco be recognized to interpellate.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Colayco is recognized.

MR. COLAYCO: Thank you, Mr. Presiding Officer.

Additional questions to Commissioner Rosario Braid on Section 13, particularly with reference to the first sentence which reads:

It shall be the responsibility of the State to adopt population policies most conducive to the national welfare.

Earlier, I asked this question. What are the policies that the Commissioner have in mind? I suppose that one of them, which is being practiced right now, is population control. Does she have any other policies in mind?

MS. ROSARIO BRAID: Maybe a board could be formed to come up with population policies which would encourage other indirect forms of population control such as, for instance, improving the welfare or status of women which we have already enshrined and providing more access to education so that families would opt for smaller families. It has been shown in research all over the world that the higher the educational qualification of a woman, the less number of children she has and the more families are able to attain a higher standard of living, the more they also opt for smaller families.

MR. COLAYCO: Assuming that that theory is correct, does the Commissioner think that the present family planning program that is already enforced now does not reach the poor people who produce the bigger families?

MS. ROSARIO BRAID: It does right now. The population program is mostly on applied family planning. The program is often integrated with primary health care which is expected to reach as many people.

Let me just cite some figures which I think were already given to the Commissioner to show the expenditures allocated.

MR. COLAYCO: Just a minute. I do not like to change the subject.

BISHOP BACANI: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bacani is recognized.

BISHOP BACANI: First, I just want to clarify and reiterate my reply to Commissioner Quesada this morning that when we speak here of "It shall be the responsibility of the State to adopt population policies . . .," we do not automatically include or mandate a population control policy. In fact, the government will have to review such a policy to see whether or not it is most conducive to the general welfare.

MS. ROSARIO BRAID: Yes.

MR. COLAYCO: I was asking these questions and the subsequent ones to determine whether the program has been effective at all. That is my purpose in asking these questions.

MS. ROSARIO BRAID: The growth rate has increased.

MR. COLAYCO: Naturally, it has failed.

MS. ROSARIO BRAID: It has not gone down. As a matter of fact, at one time, it was 2.4 and over the past two years, it went up to 2.6. So that is an indicator of the fact that it has been a failure.

MR. COLAYCO: Will the Commissioner inform us the reason for the failure?

MS. ROSARIO BRAID: I think it is partly due to resistance also. Considering the culture of the Philippines, Filipinos are such that they like larger families. This is one of the cultural factors that would make a family planning program not acceptable to many.

MR. COLAYCO: Does the Commissioner have statistics to show what particular sector of the country contribute to the increase in population? Shall I say the poor sector, the middle class sector or the upper sector?

MS. ROSARIO BRAID: We do not have accurate statistics but according to the statistics of many countries, usually the family planning program is more successful in the middle and upper classes but not among the poor. I think it is also equated with the culture of poverty where if the poor do not see any reason for advancement, that is the only escape.

MR. COLAYCO: So it would seem that if we continue this program, we will be uselessly spending money. As a matter of fact, the Commissioner's admission shows that to date the program of population control has been a total failure. Is that right?

MS. ROSARIO BRAID: I think we would infer that.

MR. COLAYCO: Yes. How much money did the government spend for this?

MS. ROSARIO BRAID: Let me cite from statistics on the budgets for social welfare and population control. This year 1986, the Population Commission, which is the implementing agency for population control programs, spent P236 million. In comparison with the Ministry of Social Services budget, it is much less because the total MSSD budget is P187 million.

MR. COLAYCO: Let me stop first. Did the Commissioner say P236 million just for the population control program?

MS. ROSARIO BRAID: Yes.

MR. COLAYCO: For this year alone?

MS. ROSARIO BRAID: For this year alone.

MR. COLAYCO: How about the previous years?

MS. ROSARIO BRAID: In 1985, it was P201 million; in 1984, P194 million; in 1983, P233 million. These expenditures do not include those spent in the previous years when there was greater activity. As a matter of fact, I could attest because I used to be with the program in Sri Lanka way back during the decade of the 70s. There was more activity in this field and more money was spent in family planning.

MR. COLAYCO: Pardon me for interrupting. So all this money went down the drain. Does the Commissioner not think that the government could have spent it much better, with better beneficial results, for the poor? Let us forget the middle class and the upper class Filipinos. Let us think of the poor. The government must not have insisted on following the theory that the economic condition of the country would improve by simply cutting down population.

MS. ROSARIO BRAID: I agree with the Commissioner. But decisions like this, for instance, a family planning program's thrust, is always determined by the funding agency. So we do not make unilateral decision in taking a clinical approach. In other words, it is often the approach of the funding agency which gives the money.

MR. COLAYCO: So, it is most likely that all this money was spent for the middle class people, middle-class-range of citizens.

MS. ROSARIO BRAID: We can deduce from that.

MR. COLAYCO: So the program did not at all affect the economic condition of the less privileged class of our country?

MS. ROSARIO BRAID: Except when it is integrated with the health program and where the program also helps in terms of information and education in a comprehensive health program. But Commissioner Quesada, who is an expert in this area, told us that even in that area it was not successful.

MR. COLAYCO: Does the Commissioner not think that because of these statistics which she revealed, the main reason why the population control program had not worked is because, as the Commissioner said, of the old Filipino tradition of letting nature work without the use of artificial means to control it? If this is so, we should have a rethinking of this policy.

Thank you.

MS. ROSARIO BRAID: Yes, we quite agree.

MR. ABUBAKAR: Mr. Presiding Officer, may I raise a few questions on that particular point?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Abubakar is recognized.

MR. ABUBAKAR: As the Commissioner has recited, there is sufficient appropriation in connection with population control program. If it has failed, we can draw an obvious conclusion that this strategy and direction of the campaign on population control was not well formulated, managed or directed. Would it not be in the interest

of the country and of the Filipino people to entrust the campaign direction, formulation of the attack, as well as the spread of the ideas, that population control is one of the salvation points in our march towards progress and stability by incorporating that two-thirds of the appropriation for that purpose shall be allotted to the campaign in printing literature, pamphlets or whatever materials we need so that the campaign could be directed like it was a strategy.

A vote sheet formulates the campaign, the idea, the slogan and all that. We should print all the papers and distribute them to the people even in the barrios of different dialects. This campaign, if it is done properly, could be successful.

Because of the conclusion that we have not gone so far and because of the charge of some of the honorable Commissioners that this money has been wasted and has gone down the drain since it has not achieved any success, we must review our strategy or try a new approach. We must formulate our plan; direct the goal to which we should be dedicated to achieve the purpose for which this money shall be spent.

I have been to many countries and I have travelled even as far as India, Pakistan and many others. It is a tragedy to see the poor become poorer, to see children in their skeletal form, deprived of food and all that. I do not want this to happen to our people.

I believe in the theory or in the practicality of population control. Perhaps, history will now know. Bless this Commission for it has foresight, so that the Filipinos born after us will be well protected. As I said, government funds should be appropriated for their support, for their improvement and for their progress through a population control program.

I have no quarrel with those who want to raise a big family, if they want to. But the whole Filipino people should be enlightened; they should be bombarded with all the literature we can muster, with all the campaign fund, as if it were a war objective. Perhaps, with this approach, we will be able to wage a successful campaign to imprint in the mind of every Filipino, especially the man, the control of his desire and, for the woman, to formulate a family strategy in which she would not be burdened anymore with raising four or five children.

MR. RAMA: Mr. Presiding Officer.

MR. ABUBAKAR: Please wait a minute because this is for the good of the Filipino people. (Laughter)

MR. RAMA: I am sure it is for the good of the Filipino people, but I am not sure whether it is good for our deadline. (Laughter)

MR. ABUBAKAR: Mr. Floor Leader, may I know in confidence how many children you have? (Laughter)

MR. RAMA: That is a military secret. (Laughter)

MR. ABUBAKAR: I will only acknowledge the number of children the Floor Leader will admit.

MR. RAMA: With the indulgence of the Commissioner, I ask that Commissioner Tan be recognized.

MR. ABUBAKAR: Mr. Presiding Officer, please, this is a vital issue; this is for the good of our people, for the future generation. Let everyone speak his mind on this fundamental question.

Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): Thank you.

Commissioner Tan is recognized.

SR. TAN: Mr. Presiding Officer, I would like to say that I do not think propaganda and communications would be

sufficient to help in the population control.

I think we have to attack the root problem which is abject poverty. Because of abject poverty, the absence of electricity and opportunity for recreation which contribute to physical proximity, the outlook that a child is a potential wage earner, and, as Commissioner Colayco said, the Filipino's traditional love for large families, this population control program did not work. So we can have all the propaganda we want, but if these are not heeded by the women, then these will fail.

Thank you.

MR. COLAYCO: Mr. Presiding Officer, just one minute to react to Commissioner Abubakar's comments.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Colayco is recognized.

MR. COLAYCO: The whole approach of the government towards the improvement of our economy in relation to the population control program is, I think, very simplistic. Mr. Thomas Robert Malthus, an economist who was born in 1766, first pronounced the theory that economy will not improve unless the population is controlled. Time has proven that this theory is wrong. So the government should approach the problem of economy from a different angle this time, which is, I think, a better and equitable distribution of our resources and wealth.

Thank you, Mr. Presiding Officer.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Rigos be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Rigos is recognized.

REV. RIGOS: Mr. Presiding Officer, we do not have the statistics here, as Commissioner Rosario Braid has said, but my own recollection is that at a certain point in time, the population rate was 2.8, and then it went down to 2.4 and again went up to 2.6. Certainly, if our reference is 2.4, then when it has gone up to 2.6, it does not look very encouraging. But if the point of reference is 2.8, and it has gone down to 2.4 and now it is 2.6, would the Commissioner still consider it a failure?

BISHOP BACANI: I must admit that in comparison to the amount of expenditures and effort that have been directed towards this end, I would still consider that particular aspect a failure because if we had invested this P236 or P233 million and the subsequent P194 and P201 million in family welfare projects, these might have borne a bigger fruit not only in terms of the amelioration of the quality of life of the people but also in terms of the reduction of the birth itself. These might have turned out better even in the reduction of the population than by direct population control methods.

REV. RIGOS: According to Commissioner Aquino, the population rate was 2.6 in 1975, 2.8 in 1980 and there was no indication that it has gone down. I think there are statistics to prove that it has gone down to 2.4 and went up to 2.6. At any rate, the original wording of this section was taken from the 1973 Constitution which says:

It shall be the responsibility of the State to achieve and maintain population levels most conducive to the national welfare.

But because of some objections from certain quarters, the committee, at its last meeting, accommodated the recommendation of Commissioner Bacani and so the present wording is: "It shall be the responsibility of the State to adopt population policies most conducive to the national welfare."

Does Commissioner Bacani still stand pat on his opinion that this is a better wording than that of the 1973 Constitution?

BISHOP BACANI: I think the present wording is better than that of the 1973 Constitution because the 1973 Constitution provision did already state a definite policy regarding population — the achievement and maintenance of the population level. Personally, I do not think that this is an optimum formulation I have arrived at, but it is better than the 1973 formulation.

REV. RIGOS: At any rate, the intendment is that if the government, upon review, finds out that the policy on population control has not succeeded, it shall adopt a population policy most conducive to the national welfare. Am I correct?

BISHOP BACANI: First of all, this will eliminate a constitutional mandate for the achievement and maintenance of a population level which would be most conducive to national welfare as it is said here. So there would not be any constitutional mandate for that anymore. However, this policy is subject to review by the government, leaving open the possibility for future policies.

REV. RIGOS: That is correct. But, if in the opinion of the government it is a good policy, it may continue with that policy according to the terms of the present formulation.

BISHOP BACANI: Yes, according to these terms.

REV. RIGOS: Mr. Presiding Officer, may I go back to Section 11, the second paragraph:

No one individual, family or corporation can own more than one form of commercial mass media in a single market.

Suppose in my hometown in Quezon Province, I decide to put up a newspaper business and there is no one else interested to put up a newspaper business in a community of around 80,000 people, will that be a monopoly under the definition of this paragraph?

MS. ROSARIO BRAID: No, Mr. Presiding Officer. As a matter of fact, that will not be monopoly since it is in a single market. The intention of the provision is to call a spade a spade. Since the "single market" concept tended to confuse many, we will reformulate it to say that "media monopolies will not be allowed." We will let Congress stipulate what constitutes a monopoly.

REV. RIGOS: In the case that I have just presented, I will be the only one running a newspaper plant in the community and that is not monopoly in the Commissioner's definition of the term.

MS. ROSARIO BRAID: I think "monopoly" means that there are several entrepreneurs in a single market but if one owns a majority, that would constitute a "monopoly" in our definition.

REV. RIGOS: Suppose in that same community where I have my newspaper plant, there is a need for a radio station and no one else except I is interested to put up one, would I be allowed under the provision of this section?

MS. ROSARIO BRAID: This provision would like to encourage broadened ownership such as cooperative ownership or ownership through a foundation which really is similar to a cooperative ownership, in order that it will prevent too much concentration of power in any one person. We realize how media can really be used for political ends.

REV. RIGOS: But suppose the people in the community are not yet ready for any cooperative enterprise, would the Commissioner allow a single person to put up the business?

MS. ROSARIO BRAID: I think this will be defined under the concept of public interest. There are exceptions which will be defined under this concept.

REV. RIGOS: Thank you, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer, may I just clarify. Maybe I can answer the question of Commissioner Rigos.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Monsod is recognized.

MR. MONSOD: During lunch, we were discussing this issue and what we proposed to do is introduce an amendment to read: "CONGRESS SHALL PROHIBIT OR REGULATE MONOPOLIES AND COMBINATIONS IN RESTRAINT OF TRADE IN MASS MEDIA." So, in the Commissioner's particular example, there would be room for regulation, not necessarily prohibition.

REV. RIGOS: If that would be the wording in this paragraph, I would not have raised the question.

Thank you.

MR. MONSOD: Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner Ople be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Ople is recognized.

MR. OPLE: Thank you, Mr. Presiding Officer.

Mr. Presiding Officer, there are 22 sections in this draft Article on General Provisions and, of course, we have a very long draft article compared with its counterparts in previous Constitutions on General Provisions. This is understandable in the sense of the decision of the Commission to take out from its customary needs in the Article on General Provisions subjects such as education and arts and culture, even labor, social justice and other such concerns. But out of these 23 sections, if we include the proposed Transitory Provisions, is it not correct that about 80 percent deal with defense and communications? These General Provisions may possibly be mislabeled and are probably more correctly denominated as the "Article on Military and Communications Provisions."

Does the committee agree that this is dominantly a proposed article on communications and the military?

MS. ROSARIO BRAID: Yes, Mr. Presiding Officer. The proponents of the provisions on National Defense will propose to the body after approving the entire article to make this a separate article.

Earlier, too, in the proposed resolutions, there was a resolution filed and signed by about five Commissioners which proposes to have a separate article on communications and this is the reason we have several provisions. But I am not proposing to the body that we have a separate article: I am just giving the explanation.

MR. OPLE: Yes, from my standpoint of substance, I think there is nothing wrong about that. But the aesthetic sense of a future reader of this Constitution might react in this fashion because of the disproportionate emphasis devoted to only two subjects, to two themes.

MR. NOLLEDO: May I make a comment on that.

MR. OPLE: Yes.

MR. NOLLEDO: I do not believe that 80 percent concerns communications and the military. If the Commissioner

is referring to the length of the provisions, then he might be correct because the provisions on the military are very lengthy. But if the Commissioner will look at the topics from Section 1 downward, he will find out that his conclusion is not necessarily correct.

For example, Section 1 talks about the flag; Section 2 talks about the change of name; Section 3 talks of double compensation; Section 4 talks of benefits to war veterans and retirees; Section 5 talks of nonexemption from income tax of salaries of government officials. Then, Section 6 is the proposal on tribal minorities.

If we go further, after careful analysis the Commissioner will find out that it is not true that 80 percent concerns communications and the military. I hope the Commissioner will reconsider his statement.

MR. OPLE: Mr. Presiding Officer, I agree with Commissioner Nollado that all the sections from Section 1 to Section 8 on pages 1 and 2 deal with matters other than communications and the military. But the rest up to Section 22, I am afraid, will show, after a close reading, that they are devoted almost entirely to two themes, communications and the military.

But I just wanted to call the attention of the committee to this in the hope that at the proper time, they will consider some amendments that would probably consist, as well, of the redistribution of concerns under the General Provisions so that they will look truly like an Article on General Provisions.

Having dealt with the entire configuration of this Article, Mr. Presiding Officer, I should like now to put a few questions to the committee concerning Section 4 which deal with the responsibility of the State to provide adequate care and benefits for war veterans and government retirees. May I know what the principle is that urges the committee to put war veterans and government retirees together for the purpose of equal entitlement to adequate care and benefits and also for preference for them in the acquisition of public lands and the development of natural resources? The entitlement of veterans to such benefits is traditional, historic and customary but I have yet to understand why the government retirees in this section have risen to the same moral rank for purposes of the recognition of the nation as the war veterans.

MR. NOLLEDO: Commissioner de Castro and I are the main proponents of this provision. As we know, the war veterans were heroes during the war and the civil servants who have retired were heroes during peacetime, but we feel that both are discriminated against economically by the State.

We have received letters from all parts of the country coming from retirees and veterans and they seem to express the same sentiment: that they are pitifully remunerated for the services they have rendered to the government not only in times of peace but also in times of war. Hence, Commissioner de Castro and I have decided that we would combine our efforts in formulating a provision that will cover both. So from the economic side, they are equally situated, they are victims of injustice.

MR. OPLE: I have to ask that question, Mr. Presiding Officer, because historically since the end of World War II veterans have been treated as a class apart, as a group apart for purposes of considering benefits for them including war widows and orphans and I think there are both ethical and political justifications for the State to go out of its way to recognize the special contributions of, first, the valorous death of a people, those who died in defense of their country and their widows and orphans; and, second, those who fought in those times of supreme test for their country and who had the good luck to survive in whole or in part.

I do recall, Mr. Presiding Officer, a debate in the Japanese Parliament after it was reconstituted under a new constitution in the postwar era. It appeared that Japan, which was then born poor and prostrate both morally and economically, nevertheless set aside a budget so that cemeteries of the Japanese war dead in many countries of Southeast Asia and the Pacific could be tended into beautiful gardens, a luxury that a nation in that situation, after

a devastating defeat to their country, to their physical plan and to their national self-esteem, still could eke out of their scarcity an appropriate expenditure to maintain in good and dignified standing the cemeteries of their dead in previous battlefields where they had fought in Asia and the Pacific.. When I saw that, I thought that this is a country that would rival the best in the world, a country that could summon once again from the bowels of its own history and society the strength to stand up again and be in the forefront of the greatest nations.

There is a sense, Mr. Presiding Officer, in which such gestures, very deeply felt once on the part of a nation through their representatives, could be not symptoms of folly but manifestations of greatness. And that is the reason, I suppose, since antiquity and up to this time, civilized nations do pay special attention to the veterans of their wars, to the orphans and the widows of those who had fallen.

Considering this view of the contributions of those who fight for their country in wartime, I find it a little bit odd that they should be paired off with government retirees. I have nothing against government retirees, but I think there is no moral exaltation in retiring from the government or from a private company; it is something that comes in the natural course. It is something to which many people look forward as a reward not from the State but from their own lifetime labors, the time having come to put down the burden and perhaps enjoy the accumulated few savings of a lifetime, if that is possible.

And so at the proper time, Mr. Presiding Officer, I hope the committee will allow me to introduce an amendment that would separate the veterans from the government retirees. I think we can, if the Commissioner likes, deal with government retirees in another part of this article or in some other part of the Constitution.

MR. NOLLEDO: With respect to that, the classification between war veterans and government retirees call still exist. There is a distinction between the two. So, we do not equalize them. It will be Congress that will determine. The Commissioner cannot deny that both should be adequately compensated for the services that they have rendered. And so we can still take into account the circumstances under which the Commissioner differentiates war veterans from government retirees and Congress will act accordingly. To my mind, there is no need to amend unless the Commissioner really wants to differentiate them in a drastic way because the term "adequate compensation" applies to war veterans and to government retirees and separate laws may be passed by Congress in order to implement the adequate compensation contemplated by the proposal.

MR. OPLE: Each group here has its own separate set of claims on the nation for different reasons and, therefore, in order to respect the integrity of each group, I would propose at the proper time, Mr. Presiding Officer, to leave in Section 4, the concern for the veterans in their splendid isolation and historical grandeur, from the standpoint of a nation that they defended at one time, without prejudice to relocating the concern for government retirees elsewhere.

MR. NOLLEDO: We will consider the Commissioner's amendment.

MR. OPLE: Thank you.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Mr. Presiding Officer.

May I have a few words on the statements of Honorable Ople? Personally, I admire the Commissioner's concern about war veterans. But most of these war veterans are also government retirees. Take my case, for example, I am a veteran of World War II. I am a retired officer of the Armed Forces and, therefore, I am also a government retiree. Most of my guerrillas in Bukidnon were government employees, government officials, most particularly

the officials of the Bureau of Lands, Bureau of Forestry, and who are now retired. They are veterans and, at the same time, government retirees. Let us take as another example our Honorable former Chief Justice Concepcion here who joined the guerrillas, although he was not as persistent in following up his application for recognition as Justice Barrera. He is also a government retiree.

If the Commissioner likes to distinguish war veterans from government retirees, Commissioner Nolleto and I may have no objection to it.

Thank you, Mr. Presiding Officer.

MR. OPLE: Thank you, Mr. Presiding Officer.

Apropos of Commissioner de Castro's comments which I welcome, I probably may be allowed to speak from experience as well. I am the incumbent elected Chapter Commander for Bulacan of the Veterans Federation of the Philippines.

MR. DE CASTRO: Congratulations.

MR. OPLE: In World War II, Capt. Teodulo Natividad fought under the Republic Regiment of the BMA and Lieutenant Ople fought under the flag of the del Pilar Regiment of the BMA and had the good fortune to fight with the Buenavista Regiment up to the surrender of General Yamashita in Kiangnan. According to my own data in the Bulacan Chapter of the Veterans Federation of the Philippines, there are about 20,000 members. I doubt that more than 1 percent of us would be government retirees, Mr. Presiding Officer. Most of them are simple farmers, fishermen, workers and there are a few who are also functionaries of government. But, on the whole, I am willing to speculate that out of about 600,000 veterans of World War II, a very fortunate fraction, and no more, would consist of officials of the government who have retired or who are retirable. And, therefore, I welcome Commissioner de Castro's manifestation that between him and Commissioner Nolleto, there would be some understanding of this point when I present the amendment at the proper time. I also would like to ask, probably Commissioner de Castro, whether he agrees that since the end of World War II a succession of governments has not been remiss in its obligations to the veterans. For example, through reparations from Japan, the Philippine Veterans Bank was founded. And all the veterans here who were recognized, like myself, have stock certificates to prove that we were coowners of the Philippine Veterans Bank. I assume that the three veterans on that panel, Commissioners Nolleto, Natividad and de Castro, also have up to now their own stock certificates.

Would that be correct, Mr. Presiding Officer?

MR. DE CASTRO: I have stock certificates for the Veterans Bank: one certificate for one preferred share and one for a common share. For the Commissioner's information, but I hope this will not be counted against his time, we have . . .

MR. OPLE: May I have an assurance that this will not be chargeable to my time?

MR. DE CASTRO: It will be chargeable to the time of the committee.

MR. OPLE: Thank you.

MR. DE CASTRO: For the information of the body, when the Philippine Veterans Bank was closed and subjected to liquidation, the Association of Generals and Flag Officers passed a resolution asking the Central Bank to conduct an immediate investigation on how the \$20 million, which was the first capitalization of the Veterans Bank, was, I do not know, malversed or stolen by the people in power then. And we recommended certain steps to be taken to revive the Philippine Veterans Bank. I personally brought this resolution of the Association of Generals and Flag Officers to the General Bank with General Ordonez and another general.

MR. OPLE: And I suppose the Commissioner is about to report that nothing has happened.

MR. DE CASTRO: Nothing has happened.

MR. OPLE: And these stock certificates of 600,000 Filipino veterans remain worthless.

MR. DE CASTRO: I was then expecting the Honorable Natividad to investigate this matter but he was unluckily no longer with the Central Bank. Until now the Central Bank has not done anything on this. On the contrary, it has begun to liquidate the Philippine Veterans Bank. I hope we can do something about it.

MR. NOLLEDO: Mr. Presiding Officer.

MR. OPLE: Mr. Presiding Officer, just a minute, in reply to that.

The point I am concerned with is that we are asking in the Constitution for more benefits for war veterans. And yet in our conscience we also know that a lot of benefits granted by a grateful nation and government to veterans in the past had been squandered and the best proof of this is the stock certificates we all hold which have become worthless because of the failure of trust in those who managed the Philippine Veterans Bank. And I think the Members of this Commission might have a basis for asking now, if we grant through the Constitution all these other benefits sought for veterans. Will they be subject to the same risk and perhaps the same tragic fate that the benefits intended for veterans will not actually reach them because they will be squandered by those who fail their public trust in the offices that have something to do with the administration of veterans' benefits?

MR. NOLLEDO: May I make a correction? I was only seven years old when the war broke out in 1941, so I cannot be considered a war veteran. I was a courier for the guerillas, however, so, I would like to correct that error that appears in the records of this Commission. I am not as old as the Commissioner think I am.

MR. OPLE: We had seven-year-olds as runners during the war.

MR. NOLLEDO: I was one of the runners.

MR. OPLE: The only controlling standard whether one is a veteran or not, I suppose, technically speaking, is the record of the Philippine government and of the United States government. If Commissioner Nolleddo at the age of seven had performed as a courier, then he is entitled to be listed in the honor roll of Filipinos who fought for their country regardless of age.

MR. NOLLEDO: I was never listed.

MR. OPLE: I was 17 years old when I became an officer of the Resistance Movement, Mr. Presiding Officer, and I thought it was a marvelous decision I made at that age. This should be remarkable all the more when one is seven years old and has already had himself committed.

MR. NOLLEDO: Thank you.

MR. OPLE: May I give way to the chairman of the Steering Committee?

MR. BENGZON: No, I have taken over, Mr. Presiding Officer, as the Acting Floor Leader. I thought that the Commissioner was already finished.

MR. OPLE: No, I have just a few more questions to ask, Mr. Presiding Officer, but if there are any rules that I might be violating, I would like my attention to be called to that.

Section 7, I understand, has now been reformulated and the 20-year limit on the life of government ministries, bureaus, et cetera has already been lifted in favor of a more flexible term. What is the term used — "Periodically

review" the existence of these agencies? At the bottom, I believe that we may need a statement of this kind. I do not know what the exact formulation should be, but many of us who serve in government know from experience that it is almost inevitable that government agencies will proliferate. There is a propensity to create a new office for every newly perceived need. And I am glad that the Reorganization Commission of Minister Villafuerte has already recommended that about 180 government corporations be abolished.

When we look at the history of every government agency over time, we are likely to discover that it has so developed and grown that its activities after 20 years may no longer be recognizable in terms of the original purpose for which it was established. They have not yet given a name to this law. Maybe we will call it the Nollado Law — that any government agency will develop in a direction different from the original purpose that inspired its existence because of the factor of bureaucracy. They start thinking of self-aggrandizement: how power can be expanded so that the original charter merely becomes an excuse for increasing, accumulating and endlessly expanding the power of the bureaucracy so that at a certain point, it possesses plenary power over the lives of the citizens that transact business with them. Would the committee support that interpretation?

MR. NOLLEDO: Yes. That is the reason we are providing for that proposal because there were only two instances, it seems to me, after the war when a reorganization of government was attempted; namely, upon declaration of martial law and upon the setting up of a revolutionary form of government. Why do we have to wait for these extraordinary circumstances before we can effectuate a reorganization in the government? That is why I am asking my colleagues to please support that proposal.

MR. OPLE: I have supplied the committee a powerful argument on behalf of Section 7. Let us turn to the other side of the argument. This same Constitution guarantees security of tenure. I see that in Section 7, this 20-year test applies to all government ministries. Presumably, these include the Ministry of Finance and its bureaus and the Central Bank. These can include the Bureau of Internal Revenue agencies. This can pertain to any government financial institution, for example, and all of the people working in these ministries and agencies are covered by the Civil Service Law. In exchange for periodic tests on the relevance and the continued right to exist of a government ministry, on the other hand, would the Commissioner put the employees and officials of these ministries under a continuing spectre of possible dissolution and mass displacement if Congress or the appropriate governmental instrumentality in charge of the review of the relevance of a government agency should come to the conclusion that this agency should be abolished?

MR. NOLLEDO: Between the national interest and the interest of a few civil servants, I think the national interest shall prevail. If we are maintaining a white elephant at the expense of the National Treasury when the functions of a government office, for example, have become obsolete, I think the national interest should prevail.

I will recommend to Congress to adequately compensate government employees whose services are to be terminated. Aside from that fact, as a lawyer, may I inform the Commissioner that the Supreme Court has adhered continuously to the ruling that if a public office is abolished by the legislature, there is no security of tenure involved.

MR. OPLE: Since the Office of the President is also one of those ministries contemplated in this section, would the Commissioner at all adhere to the belief that if that office will ever become obsolescent, it is, therefore, fit to be dissolved? What about the Central Bank of the Philippines or, for that matter, the Ministry of Finance?

MR. NOLLEDO: With respect to the Office of the President, naturally, that is a constitutional office which we cannot abolish except by a constitutional amendment. With respect to the Central Bank, we are now raising the position of the Central Bank to a constitutional authority, so we cannot abolish that without amending the Constitution.

MR. OPLE: These are powerful offices capable of defending themselves in the periodic review.

MR. NOLLEDO: Naturally, Mr. Presiding Officer.

MR. OPLE: But what about the powerless, the less powerful bureaus of the government? What about the local governments themselves which are encompassed in this enumeration? Does the committee consider that at any time they can be fit to be dissolved because they fall short of the standards of a periodic review?

MR. NOLLEDO: That is a very good question because I think that goes into the very substance of the provision. We are referring only to offices in the executive department primarily. Perhaps this can affect some minor offices in local governments, but we are not destroying the structure of local governments as contemplated by the Constitution, otherwise that would be amending the Constitution itself.

MR. OPLE: I suppose this exchange of honest views on Section 7 has revealed that this threat of an eventual dissolution which this section would place over the heads of every single government office in the land might be too sweeping in character and could be amenable to a major amendment at the proper time.

MR. NOLLEDO: We will consider, Mr. Presiding Officer.

MR. OPLE: Yes, thank you.

I now proceed to the sections on communications, and I think I will skip Commissioner Rosario Braid's favorite section so that I can go straight to Section 11 which says:

The ownership, management, and control of any form of mass media shall be limited to citizens of the Philippines, or to corporations, cooperatives or associations wholly owned and managed by such citizens.

I find nothing wrong with that.

The next paragraph which states:

No one individual, family, or corporation can own more than one form of commercial mass media in a single market,

is a cause for deep concern because as I see it, Mr. Presiding Officer, this is an act of allocating markets by means of the Constitution. The professed objective is, of course, laudable. I think the objective is, in the words of Commissioner Foz earlier, to diversify the ownership of mass media. But when you arrogate to a government the power to allocate markets especially with the authority of a constitutional provision, that is a signal to be very wary and cautious. We might be obsessed with fears that may not correspond to the real world. I think that right now in our country, a new climate has actually released such a flood of new energies in the media field precisely because we do not constrain the media field.

Let us admit it. I worked for a government whose record in the pursuit of press freedom would have many faults and deficiencies. But today the media field is growing on its own initiative and power in a climate where old customary constraints had been lifted. Are we returning these constraints now, although for a different and perhaps nobler motive? Is it our business in the Constitutional Commission to allocate markets? I think in a plural society — and that is one of our avowed objectives for framing the Constitution, the development of a truly plural society — the emphasis must be on the freedom of initiative, the freedom of choice of citizens.

And in the debate this morning when the committee said that it is foolish for a media entrepreneur to publish four newspapers in Metro Manila, I liked the reply of Commissioner Monsod, which is, that the right to act foolishly ought not to be abridged if somebody wants to be foolish.

The point, Mr. Presiding Officer, is that the less we dictate to media entrepreneurs and media practitioners what they should do, the better it will be for press freedom and the better it will be for the whole climate of liberty that is now precisely releasing a new flood of initiative and energies in the media field. I hope that the committee, at the proper time, will entertain an amendment so that we will do away with any kind of constitutional dictum, a constitutional fiat to govern the conduct of media entrepreneurs and the practitioners of media, Mr. Presiding Officer.

I have now been approached by the Acting Floor Leader who has called my attention to the length of time that I have already utilized. I have many more questions which I think will benefit the Record of this Constitutional Commission, but I will find a way to put them forward on another occasion.

Thank you, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

MR. BENGZON: May I call on Commissioner Sarmiento now.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Thank you, Mr. Presiding Officer.

I will address a few simple questions to the members of the committee. Let me start with Section 17. I notice that we have allotted five sections, several paragraphs and subsections to the Armed Forces of the Philippines and the military. The Article on General Provisions in the 1973 Constitution allotted only two sections on the AFP and the military. These sections are longer than the Article on Family Rights. So may I know the reasons that have guided the committee for allotting several sections to the Armed Forces of the Philippines and the military?

MS. ROSARIO BRAID: Mr. Presiding Officer, Commissioner de Castro will please answer that.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner de Castro is recognized.

MR. DE CASTRO: Mr. Presiding Officer, these sections on the Armed Forces of the Philippines may be reduced depending on whether the concepts that we would like to put up will be there. Commissioner Monsod and I are working on how we can reduce this without alarming Commissioner Rene Sarmiento.

MR. SARMIENTO: Thank you.

MR. DE CASTRO: The Commissioner will notice we have Sections 17, 18, 19, 20 and 21 on the Armed Forces and the military and Section 22 is for the police. So, in time, by tomorrow, we hope to reduce these to three or four sections to make everybody happy.

I would like, however, that the concepts upon which our Armed Forces are to be organized and professionalized shall be there so that we can have a pretty good Armed Forces, not an Armed Forces that can be used by one man. By that time, we shall appreciate what the Commissioner has for this.

MR. SARMIENTO: Thank you.

Paragraph 3 of Section 17 speaks of strengthening the military's sense of patriotism and nationalism. How does the Commissioner intend to implement this noble intention?

MR. DE CASTRO: I will request Honorable Aquino, who proposed that, to answer the question.

MS. AQUINO: The proposal found its gears from the very recent experience arising from the abuse of the

military and it took off specifically from the suggestion of General Ramos for some kind of an internal value formation program within the military. However, the thrust of this proposed amendment is to precisely impose upon the State the responsibility of undertaking an offensive campaign to reorient the values towards a pluralist commitment to the people as if they were the master and to the soldiers as if they were the slaves. The concept is such that the relationship between the Armed Forces and the people is like that of the relationship between the master and the slave. And we were so used to the blighted notion that the military is just an indentured appendage, an adjunct that would serve the interest and security of the President.

In terms of operationalizing this thrust, we speak of the multifarious facets of value formation campaigns — I am just using the phrase from the speech of General Ramos — and that would mean the total overhauling of value formation in terms of commitment to service to the people.

MR. SARMIENTO: Will it mean closely working with the Commission on Human Rights so that an education on human rights should be conducted by the military?

MS. AQUINO: Yes.

MR. DE CASTRO: In addition to what the Honorable Aquino has stated, when we state that the State shall strengthen the military's patriotic spirit and nationalist consciousness in the performance of their sacred duty to the nation and the people, I want to inform the body that in the training of officers in the Philippine Military Academy, we impress upon the cadets courage, integrity, loyalty, duty, honor and love of country. And this is repeatedly emphasized to them for four years in order to attain the patriotic spirit and national consciousness in their sacred duty.

When we sign up an enlisted man, however, he has at least three months of what we call "recruit instruction" — recruit training. And it is during this recruit training that we inject into him what is duty, what is honor and what is love of country.

In the case of those in the Reserve Officers Training Corps, the ROTC, for two years they have been taught all about duty, honor, love of country, courage, integrity and loyalty in order to strengthen this patriotic spirit in their sacred duty.

It is unfortunate, however, that we are equating our Armed Forces today with what Mr. Marcos did 20 years ago. That is the very reason I have so proposed in our Constitution certain provisions that shall professionalize and let our Armed Forces have their loyalty to their country and not to one man. Please do not equate our Armed Forces with what Marcos did. Let us think of our Armed Forces some 20 or 30 years ago when they have not violated any human rights. But then they learned from Marcos who wanted to make an army for himself.

Thank you.

MR. SARMIENTO: Thank you, Mr. Presiding Officer.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Aquino is recognized.

MS. AQUINO: May I read a portion of the speech of General Ramos in the digest of the Armed Forces showing that the New Armed Forces of the Philippines is marching toward a new direction. It says:

The armed forces is already embarking on a value formation program for all military personnel, a new effort at forming values, internalization and enrichment of spiritual, moral as well as nationalistic values in the soldier in order to make him conscious of his social and moral responsibilities as the people's protector; in short, to

transform him into a God-centered, people-oriented and nation-focused Filipino soldier.

It is understandable for some of the Commissioners to fear that we are overreacting to the spectre of militarization of martial law. It is understandable to conclude that; in fact, there are others who are inclined to think of that as a constitutional mandate. Such kind of a thrust may be a reaction to our fears not necessarily imagined but natural fears because of the martial misrule.

Yes, it is true that we are intending here to decimate the remnants of the two decades of martial misrule. Likewise, it is not at all iconoclastic to provide for this kind of a provision because in all other Constitutions we checked, there are about seven countries that had adopted a people-oriented armed forces. They carry this kind of provision, if only to give constitutional imprimatur to what the definition of the armed forces should be.

MR. SARMIENTO: I have three more questions, Mr. Presiding Officer. May I proceed to my next question?

Section 21, to me, is an admission that the military in the past was not insulated from the influence of partisan politics. Now we have this proposal:

The military as impartial guardian and protector of the Constitution, the country, and the people shall be insulated from the influence of partisan politics. No member of the military shall engage directly or indirectly in partisan political activity except to register and vote.

How do we intend to implement this noble intention?

MR. DE CASTRO: As I said this is a matter of continuous education but this is a two-bladed provision. If the Commissioner is speaking of Section 21, it is a two-bladed section where it states that the military as impartial guardian and protector of the Constitution, the country, and the people shall be insulated from the influence of partisan politics, meaning, other political parties should not influence our Armed Forces. The second sentence says that no member of the military shall engage directly or indirectly in partisan political activity except to register and vote. This is a matter of education to our Armed Forces not to participate in any political activity directly or indirectly. The first sentence, however, refers to the people particularly the political parties. Please spare the members of our Armed Forces from political activity as it is very dangerous. Take, for example, the case of several officers and enlisted men under the then Mambabatas Pambansa Pacificador. Several officers and enlisted men were already in his house serving him, the political mogul in the area, and they are now being suspected of killing former Gov. Evelio Javier.

So, we are requesting politicians not to meddle with our officers and men; we are educating our officers and men not to meddle in politics. That is the meaning of Section 21.

MR. SARMIENTO: Thank you, Mr. Presiding Officer.

MR. NOLLEDO: May I add to the statements of Commissioner de Castro. To my mind, when we state on line 3 of page 6 that the people shall be insulated from the influence of partisan politics, this statement is directed to public officials who occupy higher positions and who can possibly influence the military. For example, the President, in his capacity as Commander in Chief, may use the Armed Forces in order to give assistance to his party because in our Constitution the President cannot run for reelection but he may assist his coparty men by using the Armed Forces. In that case, the President culpably violates the Constitution and subjects himself to impeachment in the appropriate case because we are not referring only to campaigning for another presidential candidate but for those campaigning for lower positions. For example, if the President wants to aid congressional candidates and uses the Armed Forces in order to help his candidates, he will be culpably violating the Constitution subjecting himself to impeachment. And in the case of lower officials, injunctive relief may lie in court if the Armed Forces are being used by lesser officials in order to advance the political aspirations of certain

people.

Thank you, Mr. Presiding Officer.

MR. DE CASTRO: Commissioner Nolleto is correct, however, with the present provision in our Constitution now that the President cannot run for reelection, the possibility is that the President will not participate anymore in the political activity of our Armed Forces because she will not run for reelection. That is why I ask politicians, especially those who occupy high positions to please refrain from convincing our Armed Forces to participate in political activities.

MS. ROSARIO BRAID: Mr. Presiding Officer, if I remember right, the phrase "insulation from politics" came from General Ramos himself.

MR. ABUBAKAR: May I offer some suggestions?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Sarmiento still has the floor.

Would the Commissioner care to yield to Commissioner Abubakar.

MR. SARMIENTO: I am willing to yield temporarily, Mr. Presiding Officer.

MR. ABUBAKAR: To really insulate the Armed Forces from partisan politics and make this constitutional provision not only mandatory but dangerous to members of the Armed Forces who are to be caught, why do we not insert a provision in the Constitution that any officer or men of the Armed Forces violating this injunction of insulating the Armed Forces from partisan politics shall be tried by court-martial and punished in accordance with the military imposition? Let the Sword of Damocles hang over their head — that if they participate, they will be slaughtered. This particular proviso which will hold them accountable, if there is evidence to prove that they had participated, will insulate the Armed Forces from partisan politics. The nature of politics is such that it is natural for any candidate to solicit the support of military officers or for military officers to help another candidate. With the proviso punishing them for this decision to participate in partisan politics, they will think a number of times before they ever campaign or side with the candidate. It is only in this threat that if they do this very thing which is prohibited, they are not only accountable to their superior officer but accountable to the law, and punishment is imposed if they are found guilty. That is the only solution.

MR. NATIVIDAD: Mr. Presiding Officer, may I mention the fact that in this matter of shielding the Armed Forces from partisan politics and in response to the question of Commissioner Sarmiento on how we intend to implement it, I think banning the assignment of the Armed Forces' officers and men to civilian offices, unless it is absolutely necessary, should be a policy that should be followed because in certain instances, officers are assigned to be directors of bureaus, assistant directors, section chiefs, division chiefs in bureaus and offices and assigned by groups to elected officials and they remain in such positions for years, tending to forget their military customs and courtesies and the traditions of the service. I think this should be a policy that should be followed: That unless it is absolutely necessary, in the interest of national security, there should be a ban on the long-term or short-term assignment of military officers to civilian offices.

MR. SARMIENTO: Thank you, Mr. Presiding Officer.

May I address this next question to our police expert, the Honorable Commissioner Natividad? Section 22, lines 10 to 12, states that the authority of local executives over the police units in their jurisdiction shall be provided by law. Is this an admission that the integration of the police with the PC is a failure?

MR. NATIVIDAD: Is the integration of the police with the PC a failure? Not quite. There are many defects, Mr. Presiding Officer. Some of them are dangerous and so we propose to remedy these. But I would not say it is a

complete failure because there are pros and cons to this.

Let me state, for example, that before the integration, we had a highly fragmented police system. There are 1,500 municipalities in this country and about 60 cities, each and every one of which has a separate police department. Not one of these towns or cities has the budgetary capacity to support a really effective or efficient modern police department.

Both the Congress and the civil service, and even the foreign consultants who came here to assess the situation had unanimously concluded that the police situation in this country was deplorable. An ordinary policeman earns about P20 a month, a chief of police earns about P60 a month. They go about the performance of their duties in the provinces sometimes in slippers and maybe four or five policemen share a pistol. The training is desultory. While it is true that the NAPOLCOM requires training, some mayors resist the efforts of the National Police Commission to send their men for training.

So, if this fragmented police system was very, very ineffective, the problem of jurisdiction was also present. While the police jealously guard their own territorial jurisdiction, crime has no respect for jurisdiction. A criminal will cross a border in his effort to escape, but the helpless police will halt at the border of one municipality or one city. There are even no fire trucks to speak of.

While it is true that the integration spawned a lot of problems, it also gave a little relief in that it standardized pay for rural as well as urban policemen; it standardized equipment as well as weapons; it somehow instilled more discipline; it cut off a lot of political influence. But one of the many problems that remain is that while the Constitution of 1973 mandated an Integrated National Police, the implementation of the six presidential decrees of this constitutional mandate created not one national police but two, the PC and the INP. It is called PC-INP but in its operation, however, it is always PC/INP. The PC is the nucleus of the INP but it is not part of the INP, which is a civilian component.

The integration of the PC and the INP was a play of words in the law itself considering that the National Police Commission, while having jurisdiction over the INP, has absolutely no jurisdiction over the nucleus of the INP which is the Philippine Constabulary. And while the Constabulary is technically under the law, it is also a part of the military organization.

So we have this situation where the INP is a poor second-class cousin of the PC. The PC enjoys foggy pay while the poor policeman does not enjoy this benefit of higher pay. A colonel, station commander, would sometimes be the subordinate of a lieutenant. Why? Because a province may have two districts divided among the company commanders of the PC. The commander of a PC company would be the district commander and the station commander there would be a lieutenant colonel and so a poor colonel in the INP, technically, is under the lieutenant. So, they are poor cousins of the INP organization. And besides, the stigma of the military organization having organizational and operational control over a civilian police is not really desirable for many reasons which I may yet explain in detail later on since the time is limited. But then, I already mentioned the special and main features of the defects of the implementation of Article XIV, Section 12 of the Constitution insofar as the Integrated National Police is concerned.

MR. SARMIENTO: So it is clear from the Commissioner's explanation that by integrating the police with the PC, its disadvantages far outweigh the advantages.

MR. NATIVIDAD: We may say that, Mr. Presiding Officer.

MR. SARMIENTO: My last question, Mr. Presiding Officer, concerns the last section which speaks of armed groups and paramilitary forces. Am I made to understand that these armed groups and paramilitary forces will

cover the Civilian Home Defense Forces (CHDFs), warlords, private armies and other groups created by local politicians?

MR. DE CASTRO: Is the Commissioner not one of the proponents besides Commissioner Guingona and Nollado?

MR. SARMIENTO: Yes, that is why I am clarifying it, Mr. Presiding Officer.

MR. DE CASTRO: May I know the Commissioner's intention when he put the proposed resolutions?

MR. SARMIENTO: My intention is to cover the Civilian Home Defense Forces. At the appropriate time, I will explain the reasons why they should be covered under this proposed amendment.

At this juncture, the Presiding Officer relinquished the Chair to the Honorable Alberto M. K. Jamir.

MR. DE CASTRO: It is clear in the Commissioner's proposal that he is attacking the CHDFs here. The only thing is, we tried to reformulate it such that we do not make mention of the CHDFs in our Constitution.

MR. SARMIENTO: Thank you.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Jamir): The Acting Floor Leader is recognized.

MR. BENGZON: One last interpellator is Commissioner Azcuna.

MR. AZCUNA: Thank you, Mr. Presiding Officer.

May I address the following short questions to the committee? Regarding Section 1 on the Philippine flag, can we not change the Philippine flag from red, white and blue to blue, white and red? Red stands for war and we have taken a peace-loving attitude. I think it is about time we recast the colors red, white and blue into blue, white and red. Would the committee at least think about it?

MS. ROSARIO BRAID: May I request that Commissioner Rigos, who is the Commissioner in charge of this provision, be recognized?

REV. RIGOS: Mr. Presiding Officer, the committee may even consider beginning with white.

MR. AZCUNA: Yes, for purity — white, blue and red. Let us put red at the end because that stands for war.

MR. DE CASTRO: Mr. Presiding Officer, when we first went to school, I remember the flag is red, white and blue. It is never blue, white and red. So, it is a matter of custom that we have been using it. In fact, the 1935 and the 1973 Constitutions speak of red, white and blue. But as Commissioner Rigos said, we can begin with white.

MR. AZCUNA: Yes, why do we not do that?

MR. DE CASTRO: Thank you.

MR. AZCUNA: Just to change our perceptions because we are here on communications and communications attack us not through concepts but through sense ratios and patterns of perception.

MR. NOLLEDO: If the Commissioner presents an amendment to that effect, I will support the amendment.

MR. AZCUNA: Thank you, Mr. Presiding Officer. At the proper time, I will do so.

Regarding Section 2, supposing Congress changes the name of the country or the national anthem or the national seal, can it thereafter be changed also by ordinary law?

MR. NOLLEDO: With respect to the name of the country, I think an ordinary law may be questionable because in the Constitution the word "Philippines" appears in many provisions but with respect to the national anthem and the national seal, then an ordinary law without any unconstitutional taint may be passed by Congress.

MR. AZCUNA: So the Congress may no longer change the name of the Philippines under this.

MR. DE CASTRO: If the Commissioner will read Section 2, it says that Congress may by law adopt a new name so that every time there is a new Congress, it can also adopt a new name. That is why I am not very happy with Section 2.

MR. AZCUNA: Yes, I myself am not very happy about it.

MR. DE CASTRO: It will appear that every Congress can change the name of our country.

MR. AZCUNA: Yes, Mr. Presiding Officer. I just want to point that out because in the 1973 Constitution, there is a similar provision but with a sentence that says:

Thereafter, the national name, anthem, and seal so adopted shall not be subject to change except by constitutional amendment.

So Congress is given only one shot, whereas here it is given as many shots as it likes.

MR. DE CASTRO: Yes, the Commissioner is right.

MR. AZCUNA: With respect to additional, double or indirect compensation, Section 3 says "unless allowed by law" while Section 5 of the 1973 Constitution says "unless specifically authorized by law." May we know why that phrase was taken out?

There can be no additional, double or indirect compensation since there is no law allowing it. There can be no law specifically allowing double compensation. We can have a law providing compensation for this and another law providing compensation for that; we thus have two laws providing for compensation but there is no specific law authorizing double compensation. If we drop the word "specifically" then we cannot have double compensation without a law allowing it.

MR. MAAMBONG: As I explained yesterday to Commissioner Regalado, whether or not the wording says: "specifically authorized by law," to my mind, the effect would be the same. But if the Commissioner would propose an amendment to go back to the wording of the previous Constitution, to be more specific, then I think the committee will take it kindly.

MR. AZCUNA: Yes, Mr. Presiding Officer.

The second paragraph states:

Unless required by law, neither should he hold any other office or employment in the Government . . .

My phraseology would be: "UNLESS OTHERWISE PROVIDED IN THE CONSTITUTION" because if we leave it to the law, then we can have a congress violating the separation of powers, for Congress may by law assign executive functions to justices. Would that be possible under the phrase "unless required by law"?

MR. MAAMBONG: The committee was guided by the fact that there are indeed laws — and I mean laws passed by Congress — where members of the boards or even ministers are mandated to become members, either in ex officio capacity or in whatever capacity in several boards of the government, and that is specific. Sometimes it appears in the charter of certain government-owned or controlled corporations; if we will limit it, as those provided in the Constitution, we will have some difficulty in that respect. However, I see the concern of the

Commissioner considering that when we were here in the First Regular Batasang Pambansa, I distinctly heard former Minister Roberto Ongpin saying that he was sitting in something like 36 to 40 boards of different government-owned or controlled corporations, and that practice is exactly what we are trying to eliminate. Probably the Commissioner can propose certain amendments later on to encompass that situation so that ministers or any other high-ranking government officials may no longer hold on to 30 to 40 memberships or chairmanships of different boards in the government plus their duty as ministers or directors of certain agencies of the government.

MR. NATIVIDAD: And according to a testimony, the former minister was collecting P2 million a month.

MR. AZCUNA: My concern is not so much the number of offices held within one department but crossing the departments because we are now shifting to the presidential type of government, whereas previously we had the parliamentary form of government.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Jamir): What is the pleasure of Commissioner Guingona?

MR. GUINGONA: In connection with the designation of officials with other functions, Section 8 of the Article on the Judiciary says that:

The members of the Supreme Court and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions.

So I think at least with respect to the members of the judiciary, this particular provision may not apply.

MR. AZCUNA: Thank you for that information.

Regarding the committee's proposal on tax exemption that says that salaries and other emoluments of government officials shall not be exempt from income tax, how about retirement pay because right now I remember there is a law in the Tax Code which exempts from income tax retirement benefits of government officials and employees? Would this now be subject to income tax under this provision?

MR. NOLLEDO: The Commissioner will remember as a member of the 1971 Constitutional Convention a similar provision now found in the 1973 Constitution which was sponsored by Mr. Cirilo Montejo. I was present in the committee hearing with respect to this provision and we were made to understand that when we talk of other emoluments including, of course, salaries, we are talking of salaries and other emoluments while in office.

MR. AZCUNA: I see.

MR. NOLLEDO: And so pensions, gratuities, separation pay, et cetera shall not be included under this provision.

MR. AZCUNA: Thank you.

Finally, regarding Section 16 on consumer protection, I believe that this is a very good provision. Would this provision which says, "The State shall protect consumers from malpractices and substandard products of manufacturers and producers," therefore, mandate what is known as "strict product liability" wherein manufacturers or persons responsible for putting a product in the economic stream are liable for any harm caused by a defect in that product regardless of how far down the economic stream it has gone, regardless of whether they have privity of contract to the people harmed by the defect in their products?

MR. NOLLEDO: Yes. There is a provision on quasi delict under the Civil Code of the Philippines. I agree with the Commissioner because, at any rate, it is based on the logical expectation that it is the manufacturer who is first at fault. The source of fault is really the manufacturer.

MR. AZCUNA: Thank you.

MR. MAAMBONG: I may add that in the publications we have read in the United States, the problem of birth control is really becoming a problem for manufacturers of birth control products because they are tied up in so many litigations.

MR. AZCUNA: Yes.

MR. MAAMBONG: Even though they win in the litigations, the litigation itself costs so much money in the United States and precludes them from manufacturing the products.

MR. AZCUNA: Yes, they have, as in Europe, strict product liability there.

Thank you.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Jamir): The Acting Floor Leader is recognized.

MR. BENGZON: The very last interpellator is Commissioner Suarez.

THE PRESIDING OFFICER (Mr. Jamir): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

I will be very fast here because I think most of the questions were already asked by the previous interpellators. May I go only to Section 3, lines 14 and 15 regarding the definition of the words "indirect compensation." Would this include what had already been stated here that former Minister Roberto Ongpin had been receiving about P2 million a month by way of per diems or allowances from other corporations and that is why this could be classified as indirect compensation?

MR. MAAMBONG: Personally and based on legal definition, whenever a person receives money not in the form of reimbursement for expenses actually incurred, that would fall under compensation. As a matter of fact, we have several cases which say that the ordinary meaning of the term "compensation" as applied to officers is "remuneration" in whatever form it may be given, whether it be salaries and fees or both combined, citing the case of *State v. Bland* 91 Kansas 160 and other cases. It is broad enough to include other remunerations for official services and also for the repayment of amounts expended. So, this term "compensation" covers practically everything that a person receives as long as it is not reimbursement for expenses actually incurred.

MR. SUAREZ: Including perks like free trips abroad on a vacation?

MR. MAAMBONG: That is a grey area because if one travels, he is given money to buy a plane ticket such that the money does not really go to one's pocket but to the Philippine Airlines or any other airline, for that matter.

MR. SUAREZ: Thank you.

Let me go to Section 5, which says that salaries, et cetera, shall not be exempt from income tax. If we do not provide for this in our Constitution, is the assumption not correct that all of these salaries are subject to income tax?

MR. NOLLEDO: The Commissioner will remember that there was the case of *Perfecto vs. Meer* where the Supreme Court ruled that if the salaries of justices of the Supreme Court are taxed, that will amount to a diminution of their salary in contravention of the provision of the Constitution that the salary of a justice cannot be diminished during his tenure. And so, we have to provide for this provision in order to meet head on the effect

of this decision.

MR. SUAREZ: In other words, the Commissioner is thinking in terms of the Perfecto vs. Meer decision which refers only to salaries received by justices of the Supreme Court and it does not apply to other government officials.

MR. NOLLEDO: Not necessarily because we will notice that even with respect to provisions affecting the chairmen and Members of the Constitutional Commission, there is a similar provision on nondiminution of salary during one's incumbency.

MR. SUAREZ: Thank you.

Let me go to Section 14 which reads: "Wholly-owned Filipino corporations shall be given priority to domestic credit facilities." When the Commissioner speaks of domestic credit facilities, he is referring, I suppose, not only to private banking institutions but also to government financial institutions.

MS. ROSARIO BRAID: Yes

MR. SUAREZ: So, assuming that this priority will not be exercised or extended, what penal sanction does the Commissioner have in mind, only for purposes of record, because I agree completely with this particular provision?

MS. ROSARIO BRAID: According to Commissioner Monsod, a similar provision was approved in the Article on National Economy and Patrimony after the first draft but we had approved it before that so it was included here, and if the spirit of this provision is in that provision, then this would be deleted.

MR. SUAREZ: Thank you.

So, that is subject to the existence of that particular provision.

MR. NOLLEDO: Despite that statement, I think the Commissioner's question should be answered.

MR. SUAREZ: Yes.

MR. NOLLEDO: Congress may provide for sanctions because this is already a constitutional provision.

MR. SUAREZ: Thank you.

And now we go to Section 16. This was already asked by Commissioner Azcuna, but I am aware of the fact that there is a government agency now existing called the Bureau of Domestic Trade that takes care of all of this protection extended to consumers. Does the Commissioner feel that this should be constitutionalized?

MR. NOLLEDO: Yes, we feel that it should be constitutionalized because, as we know, the Philippines has become a dumping ground for substandard products from foreign countries and we ourselves are suffering from substandard products from Filipino-owned industries.

MR. SUAREZ: Thank you.

May I go to the last page, the Transitory Provisions. When the committee speaks of armed groups and paramilitary forces now existing contrary to law, to what particular organizations or groups or forces that are now existing contrary to law is the committee referring, which should be dismantled immediately by constitutional fiat?

MS. ROSARIO BRAID: Commissioner de Castro is out at the moment.

MR. NOLLEDO: We are specifically referring to the Civilian Home Defense Forces. The Commissioner will notice that even our incumbent President, President Aquino, it seems to me, has issued already an executive order rendering unlawful these home defense forces. But it seems that the order has not been implemented.

MR. SUAREZ: So, if it is only a question of the implementation of that executive order, does the Commissioner think there is need to constitutionalize that?

MR. NOLLEDO: I believe there is a need because in the future, other presidents may set up the same paramilitary or armed groups. What is important here is that they should be dismantled by a constitutional mandate. The executive order may be withdrawn at any time.

MR. SUAREZ: In other words, is the Commissioner referring not only to those now existing contrary to law but also those which may exist contrary to law in the future?

MR. NOLLEDO: That was our original intention. But as it appears now, we are talking only of forces now existing contrary to law. I hope that can be amended accordingly.

MR. SUAREZ: Thank you.

MR. MAAMBONG: Mr. Presiding Officer, may I just indicate that as far as this section is concerned — that all armed groups and paramilitary forces now existing contrary to law shall be dismantled — there is some kind of a division on the part of the committee. Personally, I believe that we should not put this kind of a provision in the Constitution. When we say "armed groups and paramilitary forces existing contrary to law," when they exist contrary to law, they should be dismantled with or without this provision because they are precisely existing contrary to law. And to put this in the Constitution, it would sound not very elegant for a Constitution to contain this kind of a provision. I just also want to make a few comments, if the Honorable Acting Floor Leader will allow me. Mention has been made here that if we will pass this provision regarding the flag, allowing the Congress to adopt by law a new name for the country, a national anthem and a national seal, Congress might change these things every now and then. I think as a former Member of the Batasang Pambansa, that is a little bit unkind. As all of us know, the procedure in the Batasang Pambansa in passing a law was very stringent. We in the Batasang Pambansa, as in this Constitutional Commission, also went on a committee-level discussion and we did get the resource persons like experts before acting on certain situations. So, it would be actually a sweeping statement to say that Congress will just enact a law to change our national seal, our flag, et cetera every now and then.

MR. BENGZON: Thank you for the information.

Mr. Presiding Officer, there are no more interpellators. I move that we close the period of sponsorship and debate and interpellations on this Article on General Provisions.

THE PRESIDING OFFICER (Mr. Jamir): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. BENGZON: Before we recess, I am going to suggest that those who have amendments may approach the committee while the others who do not have any amendments may take their snack. Therefore, Mr. Presiding Officer, I move that we go to the period of amendments.

THE PRESIDING OFFICER (Mr. Jamir): Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. BENGZON: I now move that we declare a recess and those that have any amendments may approach the Chair.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Jamir): The session is suspended for five legislative minutes.

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:46 p.m., the session was resumed with the Honorable Francisco A. Rodrigo presiding.

THE PRESIDING OFFICER (Mr. Rodrigo): The session is resumed.

PERIOD OF AMENDMENTS

MR. BENGZON: We are now in the period of amendments, Mr. Presiding Officer.

There are some amendments that have already been accepted by the committee which will now be presented on the floor. Insofar as Section 1 is concerned, may I request that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Davide is recognized.

INDIVIDUAL AMENDMENTS

MR. DAVIDE: Thank you, Mr. Presiding Officer.

The first amendment on Section 1 will be on line 8. I move for the deletion of the words "and recognized by law" as these are unnecessary.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved.

Commissioner Padilla is recognized.

MR. PADILLA: The phrase "and recognized by law" is the exact reproduction of Section 1, Article XIV of the 1935 Constitution and Section 1, Article XV of the 1973 Constitution. I do not think it is good to remove the words "and recognized by law" which have already been established in the two previous Constitutions. And in fact, if I am not mistaken, there is some kind of a law regarding the national flag, the national anthem, and other formalities. I mean, what do we gain by removing that phrase that already appears in the last two Constitutions?

MR. DAVIDE: Yes. We requested for its deletion because, indeed, insofar as the Philippine flag is concerned, it is mandated by law and it had been recognized, and right now, it is already, shall we say, "obsolete," in the sense that it is no longer necessary. And it has been approved by the body.

THE PRESIDING OFFICER (Mr. Rodrigo): The amendment has already been approved. When the Chair asked if there was any objection, I did not hear any, and so I said: "The motion is approved." So, does anybody want to move for a reconsideration of that?

MR. PADILLA: Mr. Presiding Officer, I was going to stand up but the ruling of the Chair was very fast.

THE PRESIDING OFFICER (Mr. Rodrigo): Does anybody want to move for reconsideration?

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The presumption is, everybody voted in favor. So, even Senator Padilla I think can ask for reconsideration.

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Yes, Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: The committee did not reply.

BISHOP BACANI: Yes.

MS. ROSARIO BRAID: I was consulting with the other Members yet since Commissioner Azcuna has an amendment to this and he has just arrived. So, this is the reason for the delay in our response.

MR. DAVIDE: I would motu proprio ask for a reconsideration.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion for reconsideration is approved.

MR. AZCUNA: Mr. Presiding Officer, I would like to propose an amendment to Section 1.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Azcuna is recognized.

MR. AZCUNA: Thank you, Mr. Presiding Officer.

It is just to change the order of red, white and blue to blue, white and red.

BISHOP BACANI: May I ask a question of the proponent?

MR. AZCUNA: Yes, gladly.

BISHOP BACANI: Is the Commissioner proposing this because he is an alumnus of the Ateneo de Manila.

MR. AZCUNA: Maybe that is part of my biases, Mr. Presiding Officer, but the constitutional reason is that blue represents the side of the flag that is held up during peacetime and red is the one that is held up during war, and our Constitution is oriented towards peace. So, it is one way of signalling our peaceful intention by putting first in the enumeration of the colors blue instead of red.

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say?

BISHOP BACANI: We accept it.

MS. ROSARIO BRAID: We accept.

MS. AQUINO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Aquino is recognized.

MS. AQUINO: This is not intended to twit the proponent, but may I know the basis in the hierarchy of the choice of colors? Is it the value that attaches to the color? Because in that case then, white may take precedence over blue. I mean, white represents purity.

MR. AZCUNA: I am willing to accept an amendment to put white, but blue should follow: white, blue and red.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Maambong is recognized.

MR. MAAMBONG: I will ask the proponent a question on the basis of the legality of the change. As pointed out by Vice-President Padilla, this article appears in the 1935 Constitution where it says red, white and blue. In the 1973 Constitution, it says red, white and blue, but I am more worried about the word "and recognized by law."

When we change it, when you put it blue, red and whatever, are we not going to violate the law which recognized this flag?

MR. AZCUNA: Mr. Presiding Officer, we are not changing the colors, we are just changing the order in which we mention them.

MR. MAAMBONG: Yes, I understand that. That is why I premised my question on legal terms, because if we change the order of presentation, it actually destroys the law. Of course, we can always say that we are preparing here a Constitution which is fundamental to all laws. But I am just asking. Would it not look bad?

The second point is: Will this not contradict the tradition, the history of our people? That is the more moral point, Mr. Presiding Officer.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Suarez is recognized.

MR. SUAREZ: With due respect to my good friend, Commissioner Azcuna, I would like to object to the rearrangement in the colors for the simple reason that the color red is already colored with history from the time of Lapu-Lapu, and this means bravery and courage. Yes, and the blood of heroes flows from this color, Mr. Presiding Officer.

So, I would like to submit my objection to the proposal respectfully. Let us keep the order as it is. It has been established under the 1935 Constitution. True, we love peace, all of us love peace, but above all of this, there is the bravery and courage of our ancestors, Mr. Presiding Officer.

Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): Is Commissioner Azcuna pressing his amendment?

MR. DE CASTRO: Mr. Presiding Officer, members of the committee: As I said before, when I was a small boy and when we were small children going to school, when we described the flag, we always said red, white and blue. We did not say blue, white and red. It was always red, white and blue — maski natutulog ka, red, white and blue.

And also in the arrangement of the flag, the blue is on the east as it is now facing the east, towards the east and the red is towards the west. But traditionally, is it not that when the Gentleman was yet in short pants going to grade school, the first thing he learned about the flag is its colors — red, white and blue? That is the tradition.

MR. AZCUNA: Yes, Mr. Presiding Officer, and that is because precisely of our wrong perception, and I would like to correct it. However, in view of the disagreement among my colleagues, I withdraw the motion.

MR. DE CASTRO: Thank you.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

MR. BENGZON: The amendment that is pending before the floor is the amendment of Commissioner Davide which seeks to delete the phrase "and recognized by law" on line 8 which has been objected to by Commissioner Padilla. I feel that the body is ready to vote on this amendment.

THE PRESIDING OFFICER (Mr. Rodrigo): So the amendment is to delete on line 8 the words "and recognized by law" and place a period.

MR. OPLE: Before we vote, may I just ask a question, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Ople is recognized.

MR. OPLE: With respect to the sun in the flag, is it understood that according to law the eight rays represent the group of provinces that first rose against the tyranny of Spain? Are the eight rays retained?

MS. ROSARIO BRAID: Yes, Mr. Presiding Officer.

MR. OPLE: And there is nothing here that will prejudice either under existing law and future laws the eight rays of the sun in our color.

MS. ROSARIO BRAID: Yes, there is none.

MR. OPLE: Thank you.

MS. ROSARIO BRAID: We might say that when we were deliberating on this, we asked the Philippine Historical Society which submitted an amendment to this, which would include a symbol of the Cordilleras and the Muslim areas. Then, we also received from the mail several letters asking us to put 13 rays of the sun to represent the regions and so forth.

MR. OPLE: So, the intent of the committee now is not to disturb the eight rays. Is that correct, Mr. Presiding Officer?

MS. ROSARIO BRAID: Yes, Mr. Presiding Officer.

MR. OPLE: Thank you.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Guingona is recognized.

MR. GUINGONA: May I just ask so that I could be guided on whether to present an amendment or not? Do I understand that the word "yellow" is no longer added because it is presumed that the sun and stars would necessarily be yellow because the colors here are red, white and blue? But there is still another color which is yellow or gold.

MS. ROSARIO BRAID: Gold.

MR. GUINGONA: Cory yellow.

MS. ROSARIO BRAID: Yes.

THE PRESIDING OFFICER (Mr. Rodrigo): I think the body is ready to vote.

MR. BENGZON: We are ready to vote, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor of the amendment to delete "and recognized by law" on line 8, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 10 votes in favor and 16 against; the amendment is lost.

The Floor Leader is recognized.

MR. BENGZON: Yes. There are no more Commissioners registered to propose amendment to Section 1. May we now take a vote on the entire Section 1?

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): Section 1 reads:

The flag of the Philippines shall be red, white, and blue, with a sun and three stars, as consecrated and honored by the people and recognized by law.

As many as are in favor of Section 1, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 26 votes in favor and none against; Section 1 is approved.

MR. BENGZON: We go to Section 2 now.

MS. ROSARIO BRAID: Mr. Presiding Officer, I was going to say that our committee is divided about the proposal to delete this. We would like to throw it to the body.

MR. BENGZON: There is a proposal, Mr. Presiding Officer, to delete the entire Section 2, which I guess is an anterior amendment. The committee is divided on this and has decided to throw the issue to the floor.

THE PRESIDING OFFICER (Mr. Rodrigo): Who is the proponent?

MR. PADILLA: Mr. Presiding Officer, in accordance with my interpellations yesterday afternoon, I noted that the first sentence of Section 2, Article XV of the 1973 Constitution is an exact replica of Section 2 of the committee proposal, but Section 2 of the 1973 Constitution has a second sentence which reads:

. . . Thereafter, the national name, anthem, and seal so adopted shall not be subject to change except by constitutional amendment.

And that has not been included in this section — and correctly, I think — because after all, we have not made any change or attempted to change since the 1973 Constitution. The name Filipino or Philippines, especially Filipino, has been adopted by this Constitutional Commission in many respects, including the primary national language and the word Filipino has been widespread, recognized and honored by, we might even say, the entire world, particularly during the last U.S. visit of President Cory Aquino. So, I feel that there is no justification for this Section 2 regarding adopting a new name, even if it be by act of Congress. So I am asking for the deletion of Section 2.

MR. OPLE: Mr. Presiding Officer.

MR. BENGZON: May we request Commissioner Ople to be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): I would like to ask the committee first. What does the committee say about the proposed amendment?

MS. ROSARIO BRAID: The committee would like to throw it to the body since there are committee members who have supported this provision.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Ople is recognized.

MR. OPLE: Mr. Presiding Officer, thank you very much.

I would like to join Commissioner Padilla in his proposal to delete the entire Section 2. I believe that we have temporized these issues for a long time now. Very soon we will commemorate the centennial of Philippine Independence reckoning not from 1946, valid as that is, but from 1898, with the establishment of the first Philippine Republic at Malolos which was the great watershed for the development of our national identity, pride and solidarity.

These questions about name, anthem and flag were conclusively settled in 1898, Mr. Presiding Officer. They now enjoy, as they stand, the patina of our history representing centuries of struggle waged by our forefathers for the liberty and integrity of this country. So as not to tempt any future adventurer in power who may use the authority of Section 2 in this Constitution to make any changes which could prejudice this history of our struggle now embodied in the flag, the name of the country, the national anthem and the national seal, think it will be prudent for us to close these issues now in this Constitutional Commission of 1986 with real finality and clear the national agenda of these pending issues and the ever present risk that in the future a tyrant taking advantage of his enormous power, including the power over Congress, may decide to disturb these existing national symbols. It is said that we do not live by bread alone. We live by symbols, including the majesty of national symbols. And so, may I associate myself with Commissioner Padilla in urging that this Commission now finally close the book on these primordial issues of our national identity. We have earned that identity through several generations of courageous struggle and, therefore, I ask the committee to consider favorably the amendment proposed by Commissioner Padilla.

MR. GUINGONA: Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer, just to clarify the parliamentary situation.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

MR. BENGZON: There is a motion by Commissioner Padilla to delete. Under the Rules, there will be two speakers in favor and two speakers against. Commissioner Ople has already spoken in favor. Commissioner Suarez would just want to ask one question of Commissioner Padilla, after which, Commissioner Uka is going to speak against. And so, if there is another one who is going to speak in favor, he will come after Commissioner Uka.

MR. GUINGONA: Mr. Presiding Officer, I would also like to ask a question later.

MR. BENGZON: May I request that Commissioner Suarez be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Mr. Presiding Officer. May I address the clarificatory questions to the Honorable Padilla, the distinguished proponent of this motion to delete, to which I subscribe in the first place.

MR. PADILLA: Gladly.

MR. SUAREZ: I just would like to clear up this matter. In Section 1 we are already speaking of the Philippines. Did the Gentleman notice that, Mr. Presiding Officer? So, we have already a name and it is for our country and it is called the Philippines. And as pointed out correctly by Honorable Ople, since 1898 all of these traditional values and national consciousness in the form of a name, national anthem and a national seal have already been practically sanctioned and made sacred.

And is the Gentleman aware of the fact that after martial law had been declared, the 1973 Constitution was approved?

MR. PADILLA: Yes, Mr. Presiding Officer, the 1973 Constitution was approved after the declaration of martial law on September 21, 1972.

MR. SUAREZ: Thank you. This was supposed to have been ratified on January 17, 1973 under dubious circumstances.

MR. PADILLA: Yes, Mr. Presiding Officer, the 1973 Constitution was not actually validly ratified by the people.

MR. SUAREZ: That is right, as declared in the Javellana case, Mr. Presiding Officer. At any rate, is the Gentleman aware of the fact that during the Constitutional Convention there was a strong move to name the Philippines "Maharlika" instead of "Philippines"?

MR. PADILLA: I was not a member of the 1971 Constitutional Convention because I was an incumbent Senator then. Probably, the Gentleman will be in a better position to answer his own question.

MR. SUAREZ: Thank you, and I confirm that affirmatively. There was quite a number of equally distinguished, if not more distinguished, former delegates and colleagues who can attest to what I said.

MR. PADILLA: And I would add that the attempt or suggestion of the dictator to change the name Philippines to Maharlika was completely unfounded. It was unreasonable and not justified.

MR. SUAREZ: I agree, but there were steps which were intended to implement the change of the name from "Philippines" to "Maharlika," so much so that there were prohibitions against the use of the trade name "Maharlika" either in the Bureau of Domestic Trade or in the Securities and Exchange Commission. Is the Gentleman aware of the circumstances, Mr. Presiding Officer? These were calculated to pave the way for the change of the name — under the dictatorial regime — from "Philippines" to "Maharlika."

MR. PADILLA: I have not given any importance to the suggestions or attempts to introduce the name "Maharlika." What I know is there was one establishment in Quezon Boulevard named "Maharlika," and it had to change its name.

MR. SUAREZ: It was changed to "Maalikaya." I think this is the motel whose name was changed from "Maharlika" to "Maalikaya."

Thank you very much for the clarification, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer, may I request Commissioner Guingona to be recognized on a three-minute interpellation.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Mr. Presiding Officer.

I have no objection to the motion to delete, but during the recess, I heard the view expressed that even without a provision authorizing Congress to change, Congress would not be prohibited to change. I wonder if our constitutional law experts might be able to shed light on this problem, because if that is so, and if our fear is that Congress might change, and if it is true that without this provision Congress would still have the authority to change, then perhaps it would be better to have a provision here either disauthorizing Congress and saying, "Well, this can only be done through a Constitutional Convention," or by putting certain requirements, that is, for example, that there should be a referendum after the act of Congress. Of course, if the view expressed is not correct, then there will be no problem. Could I ask the distinguished proponent?

MR. PADILLA: First of all, Section 1 reads: "The flag of the Philippines," and so, as that name appears in the

Constitution, that name cannot be changed by Congress because it is so provided in the Constitution. And that is the reason why when the 1973 Constitution inserted this Section 2, it was followed by the second sentence:

. . . Thereafter, the national name, anthem, and seal so adopted shall not be subject to change except by constitutional amendment.

So, even the 1973 Constitution that allowed the possible change of the name did not consider that to be within the power of Congress, but by a constitutional amendment.

MR. GUINGONA: So, the Gentleman believes that as far as the name of the country is concerned, because of the use of the word "Philippines," Congress would not have the power to change. What about the national anthem and national seal?

MR. NOLLEDO: By law, puwede.

MR. PADILLA: They can be changed by "constitutional amendment."

MR. GUINGONA: They can be changed, thank you.

MR. BENGZON: Mr. Presiding Officer, as manifested earlier, there will be two speakers against. What the Floor Leader proposes is that the next speaker be a speaker against, and if there is another speaker in favor, we will recognize that, after which, the second speaker against will be Commissioner Davide.

May I now request that Commissioner Uka be recognized to speak against the proposed amendment.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Uka is recognized.

SPEECH EN CONTRA OF COMMISSIONER UKA

MR. UKA: Mr. Presiding Officer, I feel that I am a lonely voice in a big forest. Be that as it may, I would like to put it on record, even for the record alone, that there was once a lonely voice from a progeny of the Moros, a people who were never conquered, who would like to name this country not after foreigners or adventurers or conquerors but after their own people. We are not lacking in heroes; we are not lacking in names. I also notice that everytime there is some mistake, we always blame it on the previous administration. I have a friend who had a stomachache and he was blaming it on someone else in the past regime. That is funny and unfair. Let us stop doing that. It is unchristian. It should not be. But as I said, be that as it may, I would like to say something.

I have already voiced my sentiment on this subject about two hours ago wherein I said that this name "Philippines" was imposed upon us by conquerors, by a man who was an adventurer himself and who named it after a Spanish king — not even his king because he was a Portuguese working under King Philip II of Spain. I have nothing against the Spaniards. They are my brothers in humanity. As the Holy Qur'an says: "All men are but one single nation." In fact, some of my children have Spanish blood in their veins. I have nothing against the Spaniards. But before I love other countries or other people, I must love my own country and people first. Let us be proud of our people, and not try to gain glory by using the name of a foreigner. We are very fond, I want to repeat this, we are very fond of honoring foreigners and colonizers. Look at all the streets and the sitios and the barrios that we have. They are all named after foreigners. It would have been very right, if they were foreigners who did not devastate our country for about 400 years. I know the result of a vote on this. I know I would be outvoted on this section. But I would like to state a fact and to plead to you to consider this matter seriously. We cannot erase that colonial mentality which was commented upon by Don Claro Recto, if we keep on glorifying and honoring the names of foreigners or colonizers. Have you ever seen that P100 bill a few years ago? Whose picture was on that bill? It was Magellan's. I am still picking up one-centavo pieces on the streets. Nobody would

like to pick them up. Whose picture appears on that coin — Lapu-Lapu's. And to add insult to injury, we named a fish after Lapu-Lapu, the first national hero of this country and we eat the fish, of course. That is why when I go to Chinatown (Ongpin) restaurants, I ask for "Magellan," not "Lapu-Lapu." I do not want to eat my hero. (Laughter) I will keep on with these memories of the past. My people have always been fighting for this country. And what did Philippine history books written by Spanish and Filipino historians call them? They were called pirates, robbers and "huramentados." And then when you have a play which is only a pretense or "kunyari," you call it "moro-moro." "Moro-moro" also means any false show. I am proud to be a Moro. My people have always been a fighting race. And one of the mysteries of life is how they fought successfully against the most powerful nations of the world! They have always been fighting to defend their country and way of life. Fighting to them is a game. If they have no enemies to fight — no Spaniards, Portuguese, English, Americans or Japanese to fight with, they fight among themselves! Death on the field in defense of their right is, to them, a privilege and an honor and a sure way to paradise.

I am sorry, my friends, but I think I would like to say some more. After all, I spoke only for about two minutes, according to my watch which does not tell the exact time. And that is why it is called watch because we have to watch it all the time and I am always watching it. So, please forgive me for this outburst of affection for our country.

I shall now speak on the origin of the name "Maharlika." It was among the delegates of the 1971 Constitutional Convention because I was a technical assistant to some of those members of the Constitutional Convention of 1971 and I conferred with the Members and gave them the suggestion that we should change the name of this country to a name that is our very own. I even wanted to call it "Republic of Tagalog." I would rather be a Tagalog than be a Spanish subject. Do you know that the word "Filipino" was never applied to us? Our people who have brown skin were called "Indios." "Indios" means Indians. Those having half Spanish blood were called "mestizos" or half-breeds in English.

MR. OPLE: "Half-half."

MR. UKA: Yes, "half-half." And the Spaniards never applied the name "Filipino" to the natives. They did not even allow us to study the Spanish language because they said we are a low class of people. Look at that! Why should we now enshrine in our fundamental law, the Constitution, the name of the colonizer who despised and enslaved us in our own country for 400 years?

Your Muslim brothers, the Moros, who have defended this country for about 400 years, were called by the Spaniards "pirates." If the Moro was a pirate, fighting in his own homeland, the Spaniard was a worse pirate because he came here 10,000 miles away to grab our land. The Spaniard was a worse pirate. And yet the Spaniards said: "We are going there to spread Christianity." That is not true. One of the Ten Commandments is: "Thou shalt not covet thy neighbor's goods." They revised that and said: "Thou shalt covet thy neighbor's country" — and those who fought against them were called "pirates." Can you imagine that? And then later on some more Spaniards came and they said: "The only good Moro is a dead Moro." Look at that! Well, they are right when they said that. You know why? Because a living Moro's face is hard to spit on. A living Moro is hard to conquer while a dead Moro is easy to conquer because he cannot fight anymore. So, the Spaniard is right. You see, all of these Spanish ideas have to be erased from our minds and it will take some generations to do that. But although these things I have said may not convince you, I am happy with the thought that I have spoken to you on a very important but unpopular subject.

We are a nation of 87 major tribes speaking 87 major languages. We are trying to form a national language, but if we keep on with that stigma of colonization, then I do not think there will be a bright future for us. I will leave

this matter to you to think it over, my friends, and I hope that the Holy Spirit will inspire them to find a better name for our country in the years to come.

Why are you afraid to retain Section 2? The phrase "Congress may" is only permissive. Suppose Congress does not pass a law renaming the country? But who knows? Maybe not this year, maybe next year, I will not say "maybe never" — because that will be too much for a people that is trying to regain its own identity after centuries of colonization or slavery.

The worse form of slavery according to Don Claro Recto is the slavery of the mind or colonial mentality. There is no escape from it. Wherever you go, you still carry your mind. And so, my friends, I hope that you will think this over because I still believe that we should find our way to our real identity as a sovereign self respecting nation.

My friends ask: "What about our Spanish names? Do you know who gave those Spanish names?" It was Governor General Claveria. He said: "All these Indios who will not change their names will have to be punished." That is history. Yet, in spite of that, there are still some native names among our people, like Magsaysay, Makalintal, Macapagal and Makalino and others beginning mostly with Mac (Mak). But they had to hide during colonial days. They were forced to. That was all right for individuals. You can adopt any kind of name in this world, but for a country to be named after its conquerors, or their masters, to me, that is too much. Please think it over my friends. I pray to Almighty God that you will find a good native name for our country.

Thank you.

MR. BENGZON: Mr. Presiding Officer, the other speaker against the motion is Commissioner Davide. May I ask that he be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Davide is recognized.

MR. BENGZON: Under the Rules, the Gentleman is given three minutes.

SPEECH EN CONTRA OF COMMISSIONER DAVIDE

MR. DAVIDE: Thank you, Mr. Presiding Officer.

We know for a fact that history is not static. History is always growing — it must always be dynamic. The history of our country does not stop today. Perhaps between now and 20 years hence the country may undergo another historical development.

It is supposed to be that the name of the country, the seal of the country, and the national anthem must be symbolic and reflective of the traditions, history and ideals of the nation. But the tradition, the history and the ideals of the Philippines are not those before today. The 1986 Revolution contributed much to the history of our nation. Shall we foreclose the future generations who will be governed by this Constitution to relate their situation to history as developed up to their own generation? We must not. We should not.

For instance, why should we not allow the people later, through their chosen representatives, to change the national seal and eliminate therefrom any trace of colonialism? Perhaps our children will decide later to remove from the seal the great symbol of American colonialism, the eagle. Or perhaps they, too, will decide to remove that great symbol of Spanish rule, the lion. Why should we now prohibit them or prevent them?

What about the national anthem? Would the "Land of the Morning" be reflective of our tradition, ideals and history when, to date, we had just undergone a new kind of a revolution, a peaceful revolution fought with prayers and roses, where the anthem that ran throughout and moved the hearts and the minds of the people was the song "Bayan Ko"? Why prevent our children to change later the national anthem to "Bayan Ko"?

So the provision of the 1973 Constitution sought to be incorporated in the 1986 Constitution is not without meaning, is not without purpose. So I pray that we retain the wording as recommended, and if there is any fear by the proponents that a tyrant later may change the name, we can introduce an amendment to the effect that any law changing the name, changing the anthem, changing the seal must only be effective upon a ratification by the people in a plebiscite or a referendum called for the purpose. That, to me, would be the better recourse for us. We should not foreclose participation of the future in making history and writing that history into the anthem, the seal or even the name of the country.

Thank you, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

MR. BENGZON: There are no more registered speakers in favor of the motion, so we are ready to vote now. I move that we vote on the proposed amendment to delete Section 2.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): The amendment is to delete Section 2.

As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 14 votes in favor and 16 against; the motion to delete is lost.

MR. BENGZON: Mr. Presiding Officer, may I now call on Commissioner Davide to present his amendment to Section 2.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

This is an amendment jointly authored by Commissioner Monsod. On line 12, add the following new sentence: "SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A REFERENDUM."

MS. ROSARIO BRAID: Mr. Presiding Officer, the committee accepts the amendment.

MR. BENGZON: Will the Gentleman read that again, please.

MR. DAVIDE: Line 12 will read: "SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A REFERENDUM."

By "LAW," we refer to the law adopting a new name for the country, a new national anthem or a new national seal.

MR. GUINGONA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Guingona is recognized.

MR. GUINGONA: May I propose an amendment by addition to the proposed amendment of Commissioner Davide.

THE PRESIDING OFFICER (Mr. Rodrigo): Please state the amendment.

MR. GUINGONA: I propose to add the provision found in the 1973 Constitution which says: "THEREAFTER, THE NATIONAL NAME, ANTHEM AND SEAL SO ADOPTED SHALL NOT BE SUBJECT TO CHANGE EXCEPT BY CONSTITUTIONAL AMENDMENT."

MR. DAVIDE: Mr. Presiding Officer, although that can be treated separately because it is another sentence, if given the authority to accept, I would rather reject it. Since the committee already accepted the requirement of a plebiscite or a referendum, a constitutional amendment may not be resorted to for any change.

THE PRESIDING OFFICER (Mr. Rodrigo): Does Commissioner Guingona insist on his amendment to the amendment?

MR. GUINGONA: Yes, Mr. Presiding Officer, because the fear is that since Congress may, by law, even if subject to a referendum by the people, change the name, there is no prohibition that future Congresses later might again change the name of the country.

As a matter of fact, my original thinking was that the change should be not by Congress but by constitutional convention — by constitutional amendment — either through a convention or through the process of the Congress constituting itself into a constitutional assembly. That was my original proposal, but since the present proposal was made, and in order to avoid the possibility of change in the course of time by Congress, I thought it would be best to provide that in future changes, Congress may no longer change, and the change will have to be done through a constitutional amendment.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Chair sees the situation this way: I do not think that the proposal of Commissioner Guingona is an amendment to the amendment, because it is a separate sentence after the amendment of Commissioner Davide, should it be approved.

So, we vote first on the proposed amendment of Commissioner Davide. If it is approved, then we vote on the proposed amendment of Commissioner Guingona. Is that acceptable?

MR. GUINGONA: I submit.

THE PRESIDING OFFICER (Mr. Rodrigo): So, we vote first on the proposed amendment of Commissioner Davide. Please restate the amendment.

MR. DAVIDE: Thank you.

It is a new sentence on line 12 after the period (.) following "people." It reads: "SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A REFERENDUM."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

As many as are abstaining, please raise their hand. (Few Members raised their hand.)

The results show 25 votes in favor, none against and 2 abstentions; the amendment is approved.

Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Mr. Presiding Officer.

May I propose at the end of the section that has just been approved that we add "THEREAFTER, THE NATIONAL NAME, ANTHEM AND SEAL SO ADOPTED SHALL NOT BE SUBJECT TO CHANGE EXCEPT BY CONSTITUTIONAL AMENDMENT."

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say?

MR. OPLE: Mr. Presiding Officer, since this is related to the amendment of Commissioner Davide which was just approved, may I know if Commissioner Davide considers this still necessary — a necessary precaution or is it superfluous?

MR. DAVIDE: As I said earlier, it may not be necessary in view of the approval of my amendment because the effect would really be the same. It would still be submitted to the people for ratification. So, whether it would be by constitutional amendment, we still have the ratification of the people. Even if it would be by ordinary law, it would still be subject to ratification. So, there should be no fear at all which would confront us in this regard.

MR. OPLE: Yes. My only concern is that we should not be seen as establishing an overkill of precautions on this matter. And if the Davide amendment is sufficient, then maybe Commissioner Guingona can consider, if he wishes, dropping his proposal.

MS. ROSARIO BRAID: Mr. Presiding Officer, the committee is divided and we would like to throw it to the body.

MR. GUINGONA: May I say, Mr. Presiding Officer, that because of the manifestation of Commissioner Davide, I am withdrawing my motion.

MR. BENGZON: Mr. Presiding Officer, may we now vote on the entire Section 2 which reads:

The Congress may by law adopt a new name for the country, a national anthem, and a national seal, which shall all be truly reflective and symbolic of the ideals, history, and traditions of the people.

May I ask Commissioner Davide to read his amendment which was just approved?

MR. DAVIDE: "SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A NATIONAL REFERENDUM," as amended by the Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer, before we vote, may I ask a question of Honorable Davide?

The whole Section 2, as it appears now, Congress may, by law, adopt a new name. Then, it will be submitted to the people for ratification.

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. DE CASTRO: And another, Congress can pass another law and change again the name and send it again to the people for ratification?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. DE CASTRO: I think the better view would be Commissioner Guingona's, and I am surprised he withdrew, because this section alone will make every Congress change the name of the country and submit it to a plebiscite of the people. Whereas, the supposed amendment of Commissioner Guingona is a guarantee that not every Congress will change the law unless the Constitution is amended.

MR. DAVIDE: No, not necessarily, Mr. Presiding Officer, because even if it would be by constitutional

amendment, any Congress every year can also propose an amendment to the Constitution, which will again require ratification by the people. Remember that only three-fourths vote would be required for Congress to propose an amendment to the Constitution.

MR. DE CASTRO: But under the Guingona amendment, there is a restriction. One Congress can change that name and any Congress cannot change it.

MR. DAVIDE: No, Mr. Presiding Officer.

MR. DE CASTRO: Thereafter, he says, the national name, anthem and seal shall not be subject to change except by constitutional amendment.

MR. DAVIDE: Precisely, the operation of both will be subject to ratification.

MR. JAMIR: Parliamentary inquiry.

MR. DE CASTRO: It means, therefore, that one Congress can change the name, et cetera, submit it for ratification, and when ratified, cannot be changed anymore unless the Constitution is amended according to Commissioner Guingona.

MR. JAMIR: Mr. Presiding Officer.

MR. DAVIDE: The point is the difficulty of securing an approval, because it will be the people now who will approve, if it were an ordinary law or even if it were a constitutional amendment.

MR. JAMIR: Parliamentary inquiry, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Jamir is recognized for a parliamentary inquiry.

MR. JAMIR: May I know, Mr. Presiding Officer, whether Commissioner de Castro is asking for a reconsideration of the Davide amendment which has been approved?

MR. DE CASTRO: No, it is not yet approved. That statement added by Commissioner Davide is still all right with me. However, there must be a prohibition on every Congress to change the name, and the amendment of Mr. Guingona comes into proper place.

MR. BENGZON: Mr. Presiding Officer, may I raise a point of order?

THE PRESIDING OFFICER (Mr. Rodrigo): The proposed amendment of Commissioner Guingona was withdrawn.

MR. BENGZON: Yes, I would like to raise a point of order. The Floor Leader filed a motion to vote on the entire Section 2 and that motion was approved because the Chair had called for a voting of Section 2. If anyone wants to present another amendment, then there has to be a motion, but that the motion has to be defeated first.

MR. DE CASTRO: Mr. Presiding Officer, we have not yet voted on the entire Section 2.

MR. BENGZON: Precisely.

MR. DE CASTRO: That is why I am still asking Commissioner Davide about the possible amendment that Mr. Guingona proposed but which he withdrew, and which I am now proposing if he withdraws his amendment.

MR. BENGZON: The situation, Mr. Presiding Officer, is that the body is being asked now to vote on the entire Section 2 because the motion of the Floor Leader to call for a vote was not objected to.

MR. GUINGONA: I am objecting.

MR. DE CASTRO: I am objecting; that is why I asked the question.

MR. BENGZON: Mr. Presiding Officer, may I still have the floor?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Bengzon is recognized.

MR. BENGZON: So, the situation now is that the body is ready to vote on the entire Section 2 because the motion of the Floor Leader to vote on Section 2 was not objected to.

MR. DE CASTRO: I am objecting.

MR. BENGZON: Therefore, the situation, Mr. Presiding Officer, is that the body is ready to vote on Section 2.

MR. DE CASTRO: Mr. Presiding Officer.

MR. BENGZON: If there is anyone who would want to propose another parliamentary situation, that someone has to file a motion to overturn the present situation to reopen the floor for further amendments.

MR. DE CASTRO: Mr. Presiding Officer.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Rodrigo): The session is suspended.

It was 6:44 p.m.

RESUMPTION OF SESSION

At 6:47 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Rodrigo): The session is resumed.

MR. BENGZON: Mr. Presiding Officer, just to set the record straight, the Floor Leader moves for a reconsideration of its motion to vote on the entire section in order to allow Commissioner Guingona to present an amendment.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the motion is approved.

Commissioner Guingona is recognized.

MR. GUINGONA: Mr. Presiding Officer, I was willing to withdraw my previous motion because of the manifestation made by Commissioner Davide, because I realize that the Congress can amend by constituting itself into a constituent assembly. But I did not take into account one factor which the honorable Commissioner de Castro pointed out, that there is a difference between "Congress acting as Congress" and "Congress acting as a constituent assembly." "Acting as Congress," would only require a majority vote, whereas, if it "acts as a constituent assembly," there would be a requirement of three-fourths vote and, therefore, I agree with the honorable Commissioner de Castro that we should be more strict the second time around. Therefore, I am reintroducing the proposal that I made earlier that after the section is already approved as amended by Commissioner Davide, we add: "THEREAFTER, THE NATIONAL NAME, ANTHEM AND SEAL SO ADOPTED SHALL NOT BE SUBJECT TO CHANGE EXCEPT BY CONSTITUTIONAL AMENDMENT."

May I explain, Mr. Presiding Officer, that except in the case where the amendment is effected through Congress constituting itself as a constituent assembly, the process will be much more difficult. But even in the case where

the Congress constitutes itself as a constituent assembly, there will be a big difference because the vote will be changed from a majority vote to a three fourths vote.

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say about the proposed amendment?

MS. ROSARIO BRAID: We would like to throw it to the body.

MR. MAAMBONG: Mr. Presiding Officer, just one question to Commissioner Guingona. Is the Gentleman's formulation the same formulation as the 1973 Constitution, word for word, because I have here a copy of Section 2 of the 1973 Constitution:

Thereafter, the national name, anthem, and seal so adopted shall not be subject to change except by Constitutional amendment.

Is the Gentleman lifting this directly from Section 2 of the 1973 Constitution?

MR. GUINGONA: As the Gentleman read, I have lifted it there.

MR. MAAMBONG: Thank you.

MR. GUINGONA: Thank you.

MR. BENGZON: We are ready to vote, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor of the Guingona amendment, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 6 votes in favor, 18 against and 1 abstention; the proposed amendment is lost.

MR. MAAMBONG: Mr. Presiding Officer, just one query to Commissioner Davide considering that his amendment will now be in effect. Will the Gentleman yield to one question only?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Davide will yield, if he so desires.

MR. DAVIDE: Gladly, for clarification.

MR. MAAMBONG: Yes, it is a clarificatory question, not an amendment. Under the Gentleman's amendment, can Congress adopt a new name alone without adopting a new national anthem or a national seal? In other words, can Congress adopt anyone of them because it says, a new name for the country, a national anthem and a national seal.

MR. DAVIDE: Individually or collectively; meaning, that in one law, the three may be taken into account or in one law, only one will be taken into account.

MR. MAAMBONG: Will the Gentleman answer the same, Mr. Presiding Officer, if I call his attention to lines 9 and 10 which say:

The Congress may by law adopt a new name for the country, a national anthem, and a national seal, . . .

MR. DAVIDE: Probably we could change the word "and" to "OR."

MR. MAAMBONG: Is the Gentleman willing to propose that amendment, Mr. Presiding Officer?

MR. DAVIDE: The entire section has been voted upon already. Can we not leave it to the Style Committee?

MR. MAAMBONG: "And" and "or" are two different words. That cannot be left to the Style Committee.

MR. DAVIDE: Then, I would move for an amendment to change the word "and" before "seal" to "OR."

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the amendment is approved.

So, we are ready to vote on the whole section?

MS. ROSARIO BRAID: Yes.

MR. BENGZON: On the whole section, Mr. Presiding Officer.

MR. DE CASTRO: Another question, Mr. Presiding Officer, to the Honorable Davide. If we change "and" to "OR," the law can only change the name of the country without a statement regarding the national anthem or the national seal?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. DE CASTRO: So, the law also can, without changing the name nor the seal, change only the national anthem?

MR. DAVIDE: Correct, Mr. Presiding Officer.

MR. DE CASTRO: So, likewise, with the national seal?

MR. DAVIDE: Yes, Mr. Presiding Officer.

MR. DE CASTRO: And all these, changing the national seal and changing only the national anthem, will go through a referendum?

MR. DAVIDE: Will this require ratification? Yes, Mr. Presiding Officer.

MR. DE CASTRO: That makes it clear, thank you.

MR. BENGZON: Mr. Presiding Officer, may the Acting Floor Leader now read the entire section?

THE PRESIDING OFFICER (Mr. Rodrigo): Please proceed.

MR. BENGZON: "The Congress may by law adopt a new name for the country, a national anthem, OR a national seal, which shall all be truly reflective and symbolic of the ideals, history, and traditions of the people. SUCH LAW SHALL TAKE EFFECT ONLY UPON ITS RATIFICATION BY THE PEOPLE IN A NATIONAL REFERENDUM."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo): As many as are in favor of that section, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 18 votes in favor and 2 against; the section is approved.

MS. ROSARIO BRAID: Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer, some of our fellow Commissioners here say that Section 2 is just a repetition of the 1973 Constitution with a simple amendment by Commissioner Davide. They would like to proceed to Section 3.

May I call on Commissioner Davide.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

On line 18, after "state," add the following: "OR ANY OF ITS AGENCIES."

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say?

MS. ROSARIO BRAID: We accept, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The amendment has been accepted by the committee.

Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. BENGZON: Mr. Presiding Officer, Commissioner Monsod would like to change the word "required" to "ALLOWED" under line 19. May I request that he be recognized?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Monsod is recognized.

MR. MONSOD: Mr. Presiding Officer, it will read: "Unless OTHERWISE ALLOWED by law, neither should he hold any other office . . ." instead of "Unless required."

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say

MS. ROSARIO BRAID: We accept, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. BENGZON: May I request that Commissioner Azcuna be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Azcuna is recognized.

MR. AZCUNA: Mr. Presiding Officer, I would like to amend lines 15 and 16. Instead of "unless allowed by law," change this to "unless SPECIFICALLY AUTHORIZED by law" to follow the 1973 wording "unless specifically authorized by law."

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say?

MR. MAAMBONG: Mr. Presiding Officer, I was the one who rendered the subcommittee report of the Subcommittee on Public Officers to the Committee on General Provisions. As a matter of fact, Mr. Presiding Officer, in our recommendation, we actually used "unless specifically authorized by law," but I was outvoted by the committee. So, I hope the committee will now accept that amendment.

MS. ROSARIO BRAID: We accept, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The proposed amendment has been accepted.

Is there any objection? (Silence) The Chair hears none; the proposed amendment is approved.

MR. BENGZON: May we hear that amendment again?

MR. AZCUNA: On line 15, "unless allowed by law" should be changed to "unless SPECIFICALLY AUTHORIZED by law." So, delete "allowed" and insert "SPECIFICALLY AUTHORIZED."

MR. BENGZON: On the same line, Mr. Presiding Officer, Commissioner Davide wants to add one phrase.

THE PRESIDING OFFICER (Mr. Rodrigo): Line 15, Page 1.

MR. DAVIDE: Mine is line 19, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Line 19.

MR. DAVIDE: My other proposal to that is "unless SPECIFICALLY AUTHORIZED IN THIS CONSTITUTION OR BY LAW."

THE PRESIDING OFFICER (Mr. Rodrigo): That is practically a reconsideration.

MR. MAAMBONG: Mr. Presiding Officer, when we say "law," I would like to suppose that that covers the Constitution. The Constitution is law.

MR. DAVIDE: Is that the clear understanding because in the previous articles, in instances where we may have an exception provided for in the Constitution, we have always stated "unless otherwise provided in this Constitution."

MR. MAAMBONG: Mr. Presiding Officer, would the Gentleman accept the interpretation of the committee that law covers the Constitution? That would be the interpretation of the committee in this regard, Mr. Presiding Officer.

MR. DAVIDE: If that is the interpretation, I agree.

THE PRESIDING OFFICER (Mr. Rodrigo): So, the proposed amendment is withdrawn.

MR. BENGZON: Yes, are there no more amendments to this Section 3?

THE PRESIDING OFFICER (Mr. Rodrigo): Are we ready to vote on the whole section?

MR. BENGZON: Commissioner Davide has an amendment on line 22.

MR. DAVIDE: On line 22, I propose to add the following after "corporations": "OR THEIR SUBSIDIARIES."

MS. ROSARIO BRAID: We accept, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The amendment has been accepted by the committee. Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. BENGZON: Commissioner Foz is recognized.

MR. FOZ: Mr. Presiding Officer, I have a question regarding this second sentence of Section 3. I remember a provision in our Civil Service provisions which is similar to this provision. Our provision in the Civil Service states, as far as I can remember, that elective public officers shall not hold any other office or employment in the government, et cetera — almost the same as this. So it more or less duplicates that provision in the Civil Service provisions.

MR. MAAMBONG: Mr. Presiding Officer, as a matter of fact, if the Gentleman will read the outline which I distributed to the Members of the Commission, I mentioned the fact that during my interpellation of

Commissioner Davide in the Legislative Department, I already suggested that once this provision in Section 3 is approved, it will have to be transferred to Section 7 of the Article on the Civil Service Commission. Section 3 is more encompassing than the provision now in Section 7 of the Civil Service Commission, and I was thinking that once this is approved, I will submit it and I will call the attention of the Committee on Style and the Committee on Sponsorship to so transfer this to that particular provision.

MR. FOZ: But I notice a big difference between this provision and the Article on the Civil Service Commission. Under the Article on the Civil Service there is a proviso that says: "Unless otherwise provided," as against the phrase "Unless otherwise required by law" which is contained in the article that is under consideration now.

MR. MAAMBONG: That is precisely the reason, Mr. Presiding Officer, that I will suggest that this will be transposed to Section 7 because in the outline which I gave to the Members of the Commission, I said that once Section 3 is approved, it will be more encompassing than Section 7. And I do not know if Commissioner Monsod has already taken consideration of this, considering that he was the one who sponsored the portion on the Civil Service Commission. But this was my concern precisely when I interpellated Commissioner Davide in the consideration of the Legislative Department.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Acting Floor Leader is recognized.

MR. BENGZON: We could decide on this Section 3 now with that reservation of Commissioner Maambong which can be taken care of by the Committees on Sponsorship and Style.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Suarez is recognized.

MR. SUAREZ: May I just clear up one point with Commissioner Davide, before we go into the voting, on the implications of lines 19 to 22 after the inclusion of the words, "OR THEIR SUBSIDIARIES." This contemplates, Mr. Presiding Officer, an office or employment in the government but not in a private institution like the San Miguel Corporation or the Philippine Long Distance which may be under sequestration, and public officials may be appointed as directors thereof. Is that envisioned under this provision, Mr. Presiding Officer?

MR. DAVIDE: That is correct, Mr. Presiding Officer, the government-owned and controlled corporations or their subsidiaries and such offices as are included under the Civil Service provisions. It will not include privately owned corporations.

MR. SUAREZ: Even if it is under sequestration by the government?

MR. DAVIDE: I think so because sequestration does not transfer the ownership of private corporations to the government.

MR. SUAREZ: By way of example only, we shall take the case of Executive Secretary Joker Arroyo, so we will have no problems about this interpretation later on. He could very well be appointed as a member of the Board of San Miguel Corporation or of the Philippine Long Distance Corporation or any of the Lucio Tan corporations without violating this particular provision?

MR. DAVIDE: That is correct, Mr. Presiding Officer.

MR. SUAREZ: Thank you, Mr. Presiding Officer.

MR. OPLE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Ople is recognized.

MR. OPLE: May I address a question to Commissioner Davide.

In the definition of the coverage of the Civil Service Law, I recall that on an amendment by Commissioner Romulo this was restricted to government corporations with original charters, so that a good example I suppose, could consist of the GSIS being a corporation with an original charter, but under it are corporations essentially functioning as proprietary organization such as Philippine Air Lines, the Manila Hotel and the Hyatt Regency Hotel. And my understanding is that these are treated as private subsidiaries beyond the scope of the Civil Service.

May I know from the good Commissioner whether this is precisely a correct definition that would apply to the alternative offices of employment contemplated in this section?

MR. DAVIDE: Mr. Presiding Officer, when it comes to the prohibition on the holding of any other office, we notice that this Commission has always applied the prohibition to positions in government-owned and controlled corporations and their subsidiaries. For instance, the members of Congress cannot hold any other position in any government-owned or controlled corporations and their subsidiaries, and some other constitutional officers that we have provided for. The prohibition will also apply to positions in subsidiaries of government-owned and controlled corporations. I think that is really the sense of the committee in adopting this particular provision.

MR. OPLE: To be more specific and concrete, may the Minister of Tourism be disqualified from sitting as Chairman of the Philippine Air Lines, which is not a government corporation with an original charter?

MR. DAVIDE: The law that will govern this will be the Article on the Executive where you have members of the Cabinet, I understand, with certain disqualifications or disabilities, or the very Article on the Civil Service. I think Commissioner Foz may be able to enlighten us on this.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Monsod is recognized.

MR. MONSOD: I just wanted to manifest that in the Article on the Civil Service, the prohibition is on double compensation under Section 7.

MR. NATIVIDAD: Mr. Presiding Officer, just one question to Commissioner Davide.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Natividad is recognized.

MR. NATIVIDAD: Based on our experience from incidents in the past, suppose an appointive officer is from the bank — from any financial institution of the government. He is a board member of a financial institution: DBP, GSIS, PNB. Now he is appointed to 30 corporations having loans from these banks. Because of these loans, these government banks or financial institutions must have a representative in the board since the government has some exposure. This is how they do it. Now, an ordinary board member in this government institution will be sitting in about 30, 60 boards and collect enormous sums. Will this be covered by this provision?

MR. DAVIDE: No, Mr. Presiding Officer, because these are private debtors or borrowers. If they are corporations, individuals or partnerships privately owned, prohibition will not apply.

MR. OPLE: Mr. Presiding Officer, to pursue my line of questioning — I believe I have not relinquished the floor yet — in the case of the Chairman or General Manager of the GSIS — I think the Chairman now is Mr. Belmonte.

MR. BENGZON: No, Mr. Santos.

MR. OPLE: Mr. Dante Santos. Of course, we know that the GSIS has the majority interest in some private corporations like the Manila Hotel, the Hyatt and the Philippine Air Lines, and I think Mr. Dante Santos, as Chairman of the GSIS, has a presumptive right to watch over the interests of the GSIS in these private subsidiaries. As a matter of fact, he is in the Philippine Air Lines. He has a corporate obligation to see to it that the interests of the GSIS members are duly protected in the private subsidiaries of the GSIS. Is there anything in this section which will prohibit the head of the GSIS from sitting in the board of any of these subsidiaries of the GSIS in order to perform this obligation for his stock-holders?

MR. DAVIDE: Technically, there is nothing that will prohibit because the provision here is, "unless expressly authorized by law." So a law can allow it.

MR. OPLE: Unless specifically authorized by law.

MR. DAVIDE: In other words, the possible exception to this prohibition is an expressed provision of law. So, the law itself may allow.

MR. OPLE: Thank you for that clarification, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Monsod is recognized.

MR. MONSOD: When we talk about office or employment, do we include membership in the board? I do not think that membership in the board is included within the purview of office or employment, so the answer to Commissioner Ople's question is that there is no prohibition for Mr. Santos, for example, to be on the board.

MR. MAAMBONG: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): The Floor Leader is recognized.

MR. MAAMBONG: Before we put this to a vote, I have a minor concern here which is an amendment of Commissioner Davide which has already been accepted by the committee. After the word "state" on line 18 are the words "or any of its agencies" — I do not see this provision in the 1973 configuration of the provision. I just want to find out from Commissioner Davide what is the meaning of "or any of its agencies."

MR. DAVIDE: For instance, Mr. Presiding Officer, the best example will be the United States of America. That is a state, so the U.S. Government may employ an elective or appointive Filipino citizen. The latter cannot accept that without the consent of the Congress. But any agency of the U.S. Government, like any of the departments, as the Department of Agriculture, the Navy and so on, should also be included. Besides, it could also refer to, if it is a unitary state, any of its political subdivision, like a province or a municipality of that particular state.

MR. MAAMBONG: Thank you.

MR. NOLLEDO: Mr. Presiding Officer.

MR. MAAMBONG: I just want to make one last statement. By way of acknowledgment, I would like to acknowledge that the formulation of Section 1 regarding indirect compensation, except pensions or gratuities, was due to Resolutions Nos. 95 and 306 of Honorable Davide. The formulation of the second paragraph should be credited to Honorable Treñas who filed Resolution No. 260. The phrase "unless it is required by law" which is now changed to "unless otherwise allowed by law," is an original subcommittee formulation.

Thank you.

MR. AZCUNA: Mr. Presiding Officer.

I just would like to ask Commissioner Davide a question regarding this agency.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Azcuna is recognized.

MR. AZCUNA: Mr. Presiding Officer, supposing, as in the case of President Aquino receiving the Berkeley Medal from the University of California, since the University of California at Berkeley is an agency of a foreign state, would she need the consent of Congress to receive a medal from that state or school?

MR. DAVIDE: I really do not know if that institution is an agency of the State of California.

MR. AZCUNA: It is; it is part of the public school system of California.

MR. DAVIDE: My contemplation of agency is a political agency.

MS. ROSARIO BRAID: Yes. I think academic institutions will be exempted here.

MR. DAVIDE: I do not think so; it will not apply.

MR. AZCUNA: Only political agencies.

MR. DAVIDE: Political agency, because that is precisely the evil. It might really require an elective or appointive Filipino citizen to take an oath of allegiance to that government which is political in character.

MR. AZCUNA: Thank you.

MR. DE CASTRO: May I ask a question, Mr. Presiding Officer. Is the CIA of the United States a political agency?

MR. DAVIDE: It is; it is more than a political agency.

MR. NOLLEDO: Mr. Presiding Officer.

MR. BENGZON: May I request Commissioner Rigos to be recognized?

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Rigos is recognized.

REV. RIGOS: I suppose the answer to the question of Commissioner Azcuna is the same answer to my question also. Suppose a Congressman or Senator of the Philippines is given an honorary degree from a state university, that is not under the so-called title on line 17: "office or title of any kind . . ."

MR. DAVIDE: . . . "from a FOREIGN state OR ANY OF ITS AGENCY." "State" is used there more as a political concept and, therefore, the agency must also be performing a political function.

MR. NOLLEDO: Mr. Presiding Officer.

MR. BENGZON: May I request that Commissioner Nollado be recognized.

MR. NOLLEDO: Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Nollado is recognized.

MR. NOLLEDO: I beg to disagree with the assertion of Commissioner Monsod that office or employment will not include membership in the board of directors. The board manages a corporation and the employer is the corporation itself. Precisely, the second paragraph of Section 3, Mr. Presiding Officer, was designed to do away with the practice of appointing one government official to several boards of directors of different government-owned or controlled corporations where one board official would receive even up to P1 million a year. Mr. Presiding Officer, I think it is very basic that the managing body of the corporation is the board of

directors. And when you are a member of the board, you are an employee of the corporation because you form part of the management of that corporation.

MR. MONSOD: Mr. Presiding Officer, if that is the interpretation of that section, then I will move for an amendment. Instead of saying "neither should he hold any other office," I would present an amendment that that be changed to "neither should ANY ELECTIVE OFFICIAL hold any other office or employment in the government." Let us take, for example, the Minister of Trade and Industry who is also the Chairman of the National Development Company. Now, the National Development Company controls or owns the majority in several corporations, the smelter and so on. It is, in fact, in the interest of the government that the Minister of Trade and Industry sit as the Chairman of PASAR, PHILPHOS or National Steel. There is no specific law that allows him that.

MR. NOLLEDO: The first part of the second sentence reads: "unless otherwise provided by law." I think that is allowed by an existing regulation in the Office of the President.

MR. MONSOD: There is none, Mr. Presiding Officer. I do not think there is any law that specifically allows the holding of that chairmanship.

MR. NOLLEDO: That situation can be remedied by legislation or even by executive fiat, Mr. Presiding Officer.

MR. MONSOD: Then, my suggestion, Mr. Presiding Officer, is to align this with the section in the public service which reads:

No elective official shall be eligible for appointment or designation in any capacity to any public office or position during his tenure.

I agree with Commissioner Maambong that this second paragraph, unless it is aligned with Section 4, would magnify or expand that meaning and it may be counter-productive, Mr. Presiding Officer. So, I move that the word "he" be changed to "ANY ELECTIVE OFFICIAL."

MR. OPLE: Mr. Presiding Officer, are we replicating another provision on the prohibition of elective officials from serving in any other office?

MR. MONSOD: That is actually in Section 4 of the Civil Service Article.

MR. OPLE: Why do we have to reiterate it in this section?

MR. MONSOD: If we do not want to reiterate it, we can delete it. I was just responding to the suggestion earlier that if we vote on it on this basis, then the Sponsorship Committee can transpose this. In fact, it would replace Sections 4 and 7 of the Civil Service Article, if we transpose this.

MR. OPLE: Yes. That manifestation has been made, I believe, by Commissioner Maambong on behalf of the committee.

MR. FOZ: But, Mr. Presiding Officer, I disagree with the observation that this is a repetition of Section 4. There is a big difference. The phrase "unless otherwise expressly allowed by law" does not appear in Section 4 of the Civil Service provisions. By approving this, we are reconsidering our approval of Section 4 of the Civil Service provisions.

MR. MONSOD: That is right, Mr. Presiding Officer. This is a provision that would put an exception to Section 4 of the Civil Service provisions.

MR. FOZ: I suggest in this connection, Mr. Presiding Officer, that the word "he" be clarified to be changed to

"neither should AN APPOINTIVE PUBLIC OFFICER OR EMPLOYEE," to align this with Section 4 of the Civil Service provisions, because this Section 4 of the Civil Service provisions speaks of an elective public official.

Here in Section 3, in the first paragraph, the General Provisions speaks of both elective and appointive public officers receiving double compensation, et cetera, while the second paragraph, says "neither should he." Are we referring to both elective and appointive officials here? It is logical to say "yes."

MR. OPLE: Apparently, yes.

MR. FOZ: But this conflicts now with Section 4 of the Civil Service provisions because there is a difference now — "unless otherwise or expressly allowed by law." The same phrase does not appear in Section 4 of the Civil Service provisions.

MR. MONSOD: In other words, what the Commissioner is saying, Mr. Presiding Officer, is that the prohibition is more strict with respect to elective officials, because in the case of appointive officials, there may be a law that will allow them to hold other positions.

MR. FOZ: Yes. I suggest we make that difference, because in the case of appointive officials, there will be certain situations where the law should allow them to hold some other positions.

MR. OPLE: Yes, I agree.

MR. MONSOD: Yes, I stand corrected there, and I would like to amend my proposal to say "ANY ELECTIVE OFFICIAL" in line with the suggestion of the Commissioner.

MR. FOZ: Not "elective," it should be "APPOINTIVE."

MR. OPLE: "APPOINTIVE," yes.

MR. MONSOD: I am sorry, "APPOINTIVE OFFICIAL."

MR. BENGZON: May we have the formulation then, Mr. Presiding Officer, from Commissioner Monsod?

MR. MONSOD: The second paragraph will read: "Unless OTHERWISE ALLOWED by law, neither should ANY APPOINTIVE OFFICIAL hold any other office or employment in the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations OR THEIR SUBSIDIARIES."

MR. OPLE: I support this proposal.

MS. ROSARIO BRAID: The committee accepts.

THE PRESIDING OFFICER (Mr. Rodrigo): So the proposal is to change "APPOINTIVE. . ."

MR. MONSOD: Excuse me, may I just make a clarification? As I understand it, and I disagree here with Commissioner Nollado, membership in the board is not an office or employment.

MR. GASCON: Why?

MR. MONSOD: It is neither an office nor an employment. If the interpretation is that a membership in the board is an office or employment, I think that stretches the meaning of office or employment.

THE PRESIDING OFFICER (Mr. Rodrigo): There is a definite proposal. Is the body ready to vote on that? On line 19, change the word "he" to "ANY APPOINTIVE OFFICIAL."

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Suarez is recognized.

MR. SUAREZ: Just a point of inquiry. If we single out "appointive public officials" as the ones disqualified, that would give elective public officials the right. Is that the meaning of this provision, Mr. Presiding Officer?

MR. MONSOD: Mr. Presiding Officer, elective officials are covered by Section 4 of the Civil Service provisions.

MR. SUAREZ: On that understanding, that is all right.

THE PRESIDING OFFICER (Mr. Rodrigo): What does the committee say?

MR. BENGZON: Can we have it read again, Mr. Presiding Officer, just to be sure? Commissioner Monsod, please read it again.

MR. MONSOD: The second or both?

MR. BENGZON: From line 19, second paragraph.

MR. MONSOD: "Unless OTHERWISE ALLOWED by law, neither should ANY APPOINTIVE OFFICIAL hold any other office or employment in the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations OR THEIR SUBSIDIARIES."

MR. GASCON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo): Commissioner Gascon is recognized.

MR. GASCON: I just would like to know whether or not we have a quorum before we vote?

THE PRESIDING OFFICER (Mr. Rodrigo): May we know from the Secretary-General if we have a quorum?

ADJOURNMENT OF SESSION

MR. BENGZON: Mr. Presiding Officer, in view of the fact that a question has been raised, I move that we adjourn until tomorrow at nine o'clock in the morning to begin on this particular point.

THE PRESIDING OFFICER (Mr. Rodrigo): The session is adjourned until tomorrow at nine o'clock in the morning.

It was 7:24 p.m.

[*] Appeared after the roll call.

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